

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,)
4 Plaintiff,) Case No. 2:16-cr-00046-GMN-PAL
5 vs.) Las Vegas, Nevada
6) February 13, 2017
7) 2:00 p.m.
8 ERIC J. PARKER (11), O.)
9 SCOTT DREXLER(12), RICHARD)
10 LOVELIEN (13), STEVEN A.)
11 STEWART (14), TODD C. ENGEL)
12 (15), and GREGORY P.)
13 BURLESON (16),)
14 Defendants.) Day 4
15) Testimony of Rand Stover

16 TRANSCRIPT OF PROCEEDINGS
17 BEFORE THE HONORABLE GLORIA M. NAVARRO
18 UNITED STATES DISTRICT COURT CHIEF JUDGE, AND A JURY

19 APPEARANCES:

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Appearances continued on next page.

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Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

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1 (Monday, February 13, 2017, 2:00 p.m.)

2 --oOo--

3 P R O C E E D I N G S

4 THE COURT: You are free to go. Please be careful
5 with the steps on the way down.

6 Government may call its next witness.

7 MR. MYHRE: Thank you, Your Honor. The government
8 calls Special Agent Rand Stover.

9 THE COURT: Good afternoon, Special Agent Stover.
10 You will be stood right here. Please be careful with
11 the steps on your way up.

12 MR. LEVENTHAL: Your Honor, could we -- could we have
13 a sidebar just the attorneys at this point? My client would
14 waive the sidebar.

15 THE COURT: Could we do it at the bathroom break at
16 3:00?

17 MR. LEVENTHAL: I guess. Yes, I guess we could.

18 THE COURT: Okay. Let's do it at -- we'll just take
19 a little longer bathroom break than usual.

20 RAND STOVER,
21 having been duly sworn, was examined and testified as follows:

22 COURTROOM ADMINISTRATOR: State your full name and
23 spell it for the record.

24 THE WITNESS: Good afternoon, Your Honor, members of
25 the Court, ladies and gentlemen of the jury.

Rand Stover - Direct

1 My name is Rand Stover, R-A-N-D, S-T-O-V-E-R.

2 MR. MYHRE: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. MYHRE:

5 Q. Good afternoon, Agent -- Special Agent Stover. You are
6 currently serving as a Special Agent with the Bureau of Land
7 Management; is that correct?

8 A. Correct.

9 Q. How long have you been serving in that capacity?

10 A. I have been with the BLM since August of 2009.

11 Q. And the -- you were involved, were you not, as the that
12 Operations Section Chief for the impoundment operation
13 involving the removal of Cliven Bundy's cattle from public
14 lands in April of 2014; is that correct?

15 A. Yes, that's correct.

16 Q. And you were involved not only in the execution of that
17 impoundment operation, but you were also involved in the
18 planning of that operation; is that correct?

19 A. That's correct.

20 Q. And we're going to talk about each of those different
21 sections of the impoundment operation. Before I do, I'd like
22 to first ask a little few questions about your background.

23 Before becoming an agent with the Bureau of Land
24 Management, did you have any prior law enforcement experience?

25 A. I did.

Rand Stover - Direct

1 Q. What was that?

2 A. I was a special agent with the United States Secret
3 Service.

4 Q. If you could pull that microphone a little closer to you.
5 Thank you.

6 A. Is that better?

7 Q. I'm having difficulty hearing you, but it just may be my
8 advanced years. The -- so, with respect to your Secret Service
9 time, when did you begin service there?

10 A. I started as a special agent with the Secret Service in
11 February of 20 -- excuse me -- May of 2004.

12 Q. And before being with the Secret Service, did you have any
13 prior law enforcement experience?

14 A. No, I did not.

15 Q. To become an agent with the Secret Service, did you have
16 to undergo some basic training?

17 A. I did.

18 Q. What type of training did you undergo?

19 A. I was a -- attended the Criminal Investigator Training
20 Program at the Federal Law Enforcement Training Center in
21 Glencoe, Georgia. And after that, I attended the US Secret
22 Service Special Agent Training Academy in Beltsville, Maryland.

23 Q. Now, the Federal Law Enforcement Training -- is it
24 Institute or --

25 A. Federal Law Enforcement Training Center.

Rand Stover - Direct

1 Q. Center, so that's typically referred to as FLETC?

2 A. FLETC, yes. They use the acronym FLETC.

3 Q. How long does the FLETC course last?

4 A. The course I went to was approximately 10 weeks.

5 Q. And your follow-on training from there for agency-specific
6 training for Secret Service was how long?

7 A. That was about 16 weeks.

8 Q. And just generally speaking, what types of topics of law
9 enforcement did you cover in the course of that training?

10 A. At the training center in Georgia, legal training, arrest
11 techniques, serving a search warrants, report writing,
12 interviewing, defensive driving, firearms, general training
13 that most law enforcement academies go through.

14 Q. And then as your time as a Secret Service agent, generally
15 speaking, what types of duties did you perform?

16 A. As an agent, what type of duties? Can you repeat that?

17 Q. Yes. As a Secret Service agent, what types of duties did
18 you perform?

19 A. I did both criminal investigations and protective
20 assignments as a Secret Service agent.

21 Q. And in your experience doing protection assignments, did
22 you have occasion to protect heads of state?

23 A. I did.

24 Q. How about public officials? US public officials?

25 A. Yes.

Rand Stover - Direct

1 Q. What types of officials would you provide protection for?

2 A. I assisted in protection of the President of the United
3 States, the Vice President, First Lady, presidential
4 candidates, and cabinet-level members.

5 Q. So you decided to move to the Bureau of Land Management;
6 is that correct?

7 A. That's correct.

8 Q. What prompted that decision?

9 A. I had an opportunity to stay in a part of the country that
10 I really enjoyed working in if I transferred to the BLM, and so
11 I decided to take that opportunity.

12 Q. Do you have to undergo different training or further
13 training in order to become an agent for the BLM?

14 A. No, just some on-the-job training.

15 Q. Now, you are a federal agent; correct? Federal law
16 enforcement agent?

17 A. Yes.

18 Q. Okay. Is there a particular designation within the
19 federal government for a law enforcement officer?

20 A. I'm considered a 18-11 in the federal government realm,
21 which means I'm a certified criminal investigator.

22 Q. Now, as an 18-11 or as a federal law enforcement officer,
23 I suspect you take an oath of office in order to perform your
24 duties?

25 A. Yes.

Rand Stover - Direct

1 Q. Are you authorized as a special agent with the BLM to make
2 arrests?

3 A. Yes.

4 Q. Conduct investigations?

5 A. Yes.

6 Q. And to enforce the laws that apply to the public lands; is
7 that correct?

8 A. Yes. Federal laws that apply to public lands.

9 Q. Now, what is your current position with the Bureau of Land
10 Management?

11 A. I'm a special agent.

12 Q. And back in October -- excuse me -- April of 2014, what
13 was your assignment then?

14 A. I was an assistant special agent in charge for the law
15 enforcement program in Utah.

16 Q. So, from 2014 to today, it's a different assignment. Is
17 it -- as an assistant special agent in charge, do you have
18 supervisory responsibilities?

19 A. I did.

20 Q. What were those generally speaking?

21 A. In general, I supervised the other special agents in the
22 Utah program.

23 Q. Now, in your current position, are you in a supervisory
24 capacity?

25 A. No, I am not.

Rand Stover - Direct

1 Q. What was the reason for moving from a supervisory to a
2 non-supervisory position?

3 A. Similar to my move from the Secret Service, I had an
4 opportunity to work in an area of Utah that I really enjoyed
5 and wanted to be in, and so I took that opportunity.

6 Q. So a position somewhere else opened up that allowed you to
7 enjoy the lifestyle you wanted to enjoy; is that correct?

8 A. That's correct.

9 Q. Now, I want to talk a little bit about how the BLM is
10 organized.

11 A. Okay.

12 Q. Especially in the law enforcement community. You talked
13 about the special agents. Are there other law enforcement
14 officers within the Bureau of Land Management as well?

15 A. Yes, the BLM essentially has two groups of law enforcement
16 officers. We have a uniformed ranger group, and we have a
17 special agent group.

18 Q. With respect to the uniformed rangers, they -- obviously
19 you refer to them as uniforms. They wear some sort of uniform;
20 correct?

21 A. They do. They drive marked patrol vehicles with police
22 markings on the outside of the vehicles, and they wear marked
23 police-type uniforms.

24 Q. Do they wear a badge?

25 A. They do.

Rand Stover - Direct

1 Q. What are generally the duties and responsibilities for a
2 BLM ranger?

3 A. One of the primary duties of a BLM ranger is to be out
4 patrolling on public lands. Each ranger is assigned a patrol
5 district. So much as you would imagine a police officer in a
6 city has a beat or regular area that they patrol, a BLM
7 uniformed ranger has an area assigned to them that they do
8 active patrol in that area.

9 Q. Do they have a set of regulations and rules that apply to
10 how they conduct their business?

11 A. They do.

12 Q. Does it differ from the rules and regulations that you
13 have?

14 A. No, we fall under the same what we call the general orders
15 or -- and those are our law enforcement guidelines for our
16 agency.

17 Q. Do you -- within law enforcement, do you have a chain of
18 command that you report to?

19 A. Yes, sir.

20 Q. Does it differ between a special agent and a BLM ranger?

21 A. Yes, it does.

22 Q. Walk us through what a special agent -- how -- what that
23 chain of command is?

24 A. A special agent, myself, for example, I -- my immediate
25 supervisor is an assistant special agent in charge. And then

Rand Stover - Direct

1 that assistant special agent in charge reports to a regional
2 special agent in charge, which goes up to a deputy director and
3 then a director of law enforcement.

4 A uniformed ranger, depending on the state -- some
5 states have -- have a uniformed law enforcement district
6 supervisor that the ranger might report to, and then that
7 person reports to a civilian district manager.

8 In some states, we do not have supervisory district
9 ranger, so the ranger in the various areas would report
10 directly to a civilian district manager or a field office
11 manager.

12 Q. So for each, regardless of whether it's an agent or
13 ranger, they report to someone who supervises their duties;
14 correct?

15 A. That's correct.

16 Q. You've mentioned a number of times public lands, and we're
17 all generally aware of what public lands are. But I would like
18 to be a little more specific in terms of with the designation
19 or the reference to public lands and the duties and
20 responsibilities of a BLM law enforcement officer.

21 So, first of all, public lands -- federal public
22 lands are lands belonging to whom?

23 A. Public lands are lands belonging to the United States.

24 Q. Do you have a rough estimate of how many -- how many acres
25 of lands are -- fall into that category of lands belonging to

Rand Stover - Direct

1 the United States?

2 A. Well, the BLM administers approximately 245 million acres
3 of public land on behalf of all American people.

4 Q. So when you say 245 million, that's just BLM. Are there
5 other land management agencies besides BLM?

6 A. Yes.

7 Q. What are those?

8 A. It could be the United States Forest Service, the National
9 Park Service, Bureau of Indian Affairs.

10 Q. Okay. And are these lands located throughout the United
11 States or are they specific to particular regions of the United
12 States?

13 A. Well, the BLM administered lands are primarily in 12
14 western states including Alaska.

15 Q. How about east of the Mississippi?

16 A. Very few. Just a -- maybe one or two small pockets.

17 Q. So it's mostly west of the Mississippi?

18 A. Correct.

19 Q. Now, in connection with the law enforcement duties of a
20 ranger or a special agent, do the laws that you enforce, do
21 they relate to those lands designated as the public lands?

22 A. They do.

23 Q. In what -- in what way -- excuse me. What is the scope of
24 the enforcement authority then of a BLM ranger, for example?

25 A. A BLM ranger has the authority to investigate certain

Rand Stover - Direct

1 federal laws on those BLM lands that I was just talking about.
2 So BLM lands that are -- or public lands that are administered
3 by the BLM, a ranger has a duty and responsibility to
4 investigate certain laws on those lands or laws that might have
5 a nexus to those public lands.

6 Q. And is it often sometimes -- or is it sometimes the case
7 that the BLM ranger may be cross-deputized by a state agency as
8 well?

9 A. Yes, that happens from time to time.

10 Q. But regardless of whether they are cross-deputized or not,
11 they have the authority under law to perform those duties
12 within the scope as we've just defined it?

13 A. Correct.

14 Q. I would like to move forward a little bit and now talk
15 about the impoundment action in 2014. You already mentioned
16 you were the ASAC -- or, excuse me -- the assistant special
17 agent in charge in Utah; is that correct?

18 A. That's correct.

19 Q. And did you become assigned to planning for the
20 operation -- the impoundment operation regarding Mr. Cliven
21 Bundy?

22 A. I did.

23 Q. How did that come about?

24 A. I was assigned by the special agent in charge of our
25 region.

Rand Stover - Direct

1 Q. And essentially what were your duties and responsibilities
2 in a general way in term of planning for that operation?

3 A. For planning of that operation, I was designated as the
4 Operations Section Chief. So my job was to try and plan and
5 prepare for the day-to-day security operations that would go on
6 during the cattle impound.

7 Q. And what type of information did you review or consult as
8 you were going about planning for this particular operation?

9 A. I consulted the Court orders that were in place. I
10 consulted the previous administrative file and the history of
11 Mr. Bundy's activities and the cattle that were trespassing on
12 the public lands in the area of Nevada that we were planning to
13 conduct this operation.

14 We reviewed prior open-source media information
15 online sources, consulted with BLM employees who had expertise
16 in grazing and rangeland management and the -- the previous
17 history of Mr. Bundy's activities.

18 Consulted the file on any permitting that had
19 previously been allowed in the area that was no longer allowed.

20 Q. Okay. Let's -- let me just walk through a couple of
21 those. So you looked at the Court orders; correct?

22 A. Yes.

23 Q. Did you have any previous encounters or previous
24 experiences with Mr. Bundy? Previous to becoming the
25 Operations Section Chief.

Rand Stover - Direct

1 A. In 2012, yes.

2 Q. And that was in connection with a previous impoundment
3 operation that you were going to commence; is that correct?

4 A. That's correct.

5 Q. And that impoundment operation did not occur; is that
6 correct?

7 A. That's correct.

8 Q. And as a result of that, the BLM went back to court?

9 MR. LEVENTHAL: Object as to leading, Your Honor.

10 THE COURT: Sustained.

11 MR. LEVENTHAL: Thank you.

12 MR. MYHRE: I'm just trying to direct him, Your
13 Honor, but I appreciate that. I will rephrase.

14 Q. So in 2013; correct?

15 A. Yes.

16 Q. In those, the BLM went back to court; is that correct?

17 A. That's correct.

18 Q. And in connection with the 2014 impoundment, what orders
19 did you consult?

20 A. We consulted the 1998 Court order and the 2000 -- the
21 summer of 2013 and the fall of 2013 Court order.

22 Q. Right. Now, my question with respect to your previous
23 experience with Mr. Bundy, did you ever meet him personally?

24 A. No, I did not.

25 Q. Did you ever have any discussions with him?

Rand Stover - Direct

1 A. No.

2 Q. And this is in connection now with the 2014 impoundment;
3 correct?

4 A. Correct.

5 Q. In preparing for the 2014 impoundment, did you consult a
6 map and determine what the area of operation was going to be?

7 A. Yes.

8 Q. If you wouldn't mind turning to area -- excuse me --
9 Exhibit 323, please.

10 Agent Stover, what is Exhibit 323?

11 A. I've got to get it to pull up here, sir.

12 Q. Oh, I'm sorry. I thought you were -- no, in the exhibit
13 book.

14 A. Oh, I'm sorry.

15 Q. I apologize.

16 A. I thought it was coming on the screen. Can you give me
17 the number again, please?

18 Q. Sure, 323. They have moved the books. I think if you'd
19 look, there should be on the front cover the range of exhibit
20 numbers.

21 A. Okay.

22 Q. Okay. So what is 323?

23 A. 323 is an overview map including some land status
24 coloration of the area that we were going to be operating in.

25 Q. And does this map show the relative location of

Rand Stover - Direct

1 Mr. Bundy's property?

2 A. Yes, it does.

3 Q. Does it also show the location of the public lands that
4 are affected by the 2013 Court orders?

5 A. It does.

6 Q. And does it also show the -- something known as the cattle
7 distribution?

8 A. Yes.

9 Q. And was this map something that you used and consulted in
10 connection with the planning of the 2014 operation?

11 A. Yes, it was.

12 MR. MYHRE: Your Honor, we offer Exhibit 323.

13 THE COURT: Any objection to Exhibit 323?

14 MR. TANASI: No objection from Mr. Stewart, Your
15 Honor.

16 MR. MARCHESE: None from Parker.

17 MR. LEVENTHAL: No, Your Honor, from Mr. Drexler.

18 MR. ENGEL: None from Engel.

19 MR. PEREZ: None from Lovelien.

20 MR. JACKSON: No objection from Mr. Burleson.

21 THE COURT: All right. Exhibit 323 will be admitted.

22 Did you want to publish it?

23 MR. MYHRE: Yes, Your Honor.

24 THE COURT: You may go ahead.

25 (Exhibit 323 admitted.)

Rand Stover - Direct

1 BY MR. MYHRE:

2 Q. On your monitor, you should see Exhibit 323 now, Agent
3 Stover.

4 A. I see it.

5 Q. In the lower right-hand corner, do you see a little map
6 insert there?

7 A. Yes, I do.

8 Q. That's the state of Nevada; correct?

9 A. That's correct.

10 Q. And the -- the square on that map indicates what?

11 A. That indicates the area that is enlarged that we were
12 previously looking at to show a close-up view of the
13 operational area.

14 Q. So that's the area that was affected by the Court orders
15 relative to the state?

16 A. That's correct.

17 Q. Okay. If we take a look at the broader map, I'd like to
18 ask you to explain. We see a number of dots on this map. What
19 do those dots represent?

20 A. The small red dots indicate a distribution of the cattle
21 in the area.

22 Q. And when we are talking about in the area, are we talking
23 about the area of public lands that are related to the 2013
24 Court orders?

25 A. Yes, we're talking about an area in the 2013 Court orders

Rand Stover - Direct

1 was described as the "new trespass lands."

2 Q. So we talked -- and there are also "old trespass lands,"
3 or "original trespass lands"; is that correct?

4 A. That's correct.

5 Q. How are original trespass lands or the first Court
6 order -- how are those depicted on this map?

7 A. From the first Court order in the slightly green shaded
8 area. Right there, the slightly green shaded area, that
9 boundary indicates the former Bunkerville allotment.

10 Q. Now, how about with respect to the new Court orders?

11 A. The new --

12 Q. The trespass lands. Excuse me.

13 A. The new trespass lands expanded outside the former
14 Bunkerville allotment.

15 Q. And what would they include on this map?

16 A. They would include the area outside of that former
17 Bunkerville allotment where the cattle are trespassing or
18 indicated to be trespassing.

19 Q. Now, I'd like to just use my finger here and draw a circle
20 around this area of the map which appears to be a small square
21 on that map. What does that represent?

22 A. That square outlined in a -- kind of a pink color
23 represents Cliven Bundy's private property.

24 Q. Now, when you say "private property," what -- what do you
25 mean by that? What does that signify?

Rand Stover - Direct

1 A. That was a -- private property owned by Mr. Cliven Bundy,
2 his private residence.

3 Q. And do you recall how many acres approximately he owned?

4 A. I believe it was approximately 160.

5 Q. And how many acres surround his private property that
6 belong to the federal public lands that are affected by the two
7 Court orders?

8 A. Say it again.

9 Q. Sure. We talked about the new trespass lands and the old
10 trespass lands.

11 A. Correct.

12 Q. How many acres comprised that area?

13 A. It was approximately 578,000 acres.

14 Q. 570,000?

15 A. 578,000.

16 Q. Now, this area toward the bottom here I'm circling on the
17 map for you, what is that area depicted as?

18 A. The area shaded in purple and adjacent to the blue body of
19 water that is National Park Service land and the Lake Mead
20 National Recreation Area.

21 Q. Is the Virgin River depicted on this map as well?

22 A. Yes, it is.

23 Q. And what is that -- where is that located on that map?

24 A. Can I draw on this?

25 Q. Yes, if you just hit up in the right-hand corner. You are

Rand Stover - Direct

1 going to see a little -- like a pencil there.

2 So the record should reflect that the witness has
3 drawn a line extending north from the Lake Mead area, north and
4 to the east.

5 And what color is that depicted on there?

6 A. The red line I -- on the map is approximately where the
7 Virgin River is.

8 Q. Okay. Thank you. If you could clear that for us, please.

9 Where is Mesquite located on this map?

10 A. There you can see Mesquite labeled on the map.

11 Q. And that's north and east of the Bundy property?

12 A. Correct.

13 Q. And it's toward the Nevada -- is that the Nevada/Arizona
14 state line?

15 A. Yes.

16 Q. And, of course, Las Vegas is to the south; is that
17 correct?

18 A. That's correct.

19 Q. If we could enlarge the area where the dots are for a
20 minute, please.

21 Now we see that these dots extend all over the --
22 sort of that area. Can you give us a sense of just the scope
23 of the geographical area encompassed by these dots as
24 represented on this map?

25 A. Sure. So that -- the area encompassed by those dots,

Rand Stover - Direct

1 which represent areas where the cattle were located, is
2 approximately 578,000 acres.

3 Q. Right. But how many -- how many miles does that -- does
4 that area, from the Bundy Ranch, for example -- if we were to
5 draw a circle around all these red dots, what would be the
6 radius of that?

7 A. I don't know that.

8 Q. Okay. How far is it to Lake Mead from the Bundy residence
9 approximately?

10 A. I don't know.

11 Q. Okay. More than 10 miles?

12 A. Yes.

13 Q. Okay. Now, in terms of the planning for this operation,
14 given the distribution of cattle and given the area over which
15 it was, did you then have to choose a site to conduct the
16 impoundment operations?

17 A. We needed a -- we needed a base of operations, yes.

18 Q. Now, what was your general concept in terms of how you
19 were going to go about collecting these cattle?

20 A. The -- the BLM knew that we did not have enough employees
21 that were well-versed in this area to do it themselves as an
22 agency. So the BLM went through a regular government
23 contracting process to hire an outside contractor to assist
24 with the impound operation.

25 Q. So you were going to use a private contractor to help

Rand Stover - Direct

1 gather the cattle?

2 A. Correct.

3 Q. What is the terrain like in the area that we see on the
4 map?

5 A. Generally, it's -- it's arid desert terrain. It's a very
6 vast area, quite rugged country, with some pretty high
7 elevation areas relative to the Virgin River base.

8 Q. Are these -- obviously, these dots represent the cattle,
9 their distribution. But are they all together in one group or
10 are they spread out over this terrain?

11 A. No, they were spread out over that terrain.

12 Q. So, in terms of hiring contractors, what type of
13 capability do they need in order to conduct an impoundment
14 operation given this situation?

15 A. The contractors had to be able to use personnel on
16 horseback and helicopters, and also they needed to be able to
17 have trucks and trailers to transport the cattle.

18 Q. So did you then -- understanding that you would need to
19 use trucks and trailers and so forth, then did you select a
20 site where you would conduct the impoundment operation from?

21 A. Yes. We selected a central location to -- to set up a
22 base of operations.

23 Q. And the base of operations, where was that going to be
24 located?

25 A. We -- the BLM selected a location called the Toquop Wash.

Rand Stover - Direct

1 Q. And if I could ask you to turn to Exhibit 329 in the
2 notebooks, please. Have you got that?

3 A. I do.

4 Q. Yeah. Could you tell us what Exhibit 329 is?

5 A. That's an overview depiction of the Toquop Wash and
6 Interstate 15.

7 Q. And is that the general location of the impoundment site
8 or the area where you were conducting impoundment operations?

9 A. Yes.

10 Q. And it's a fair and accurate depiction as it appeared in
11 April of 2014?

12 A. Yes, it is.

13 MR. MYHRE: Your Honor, we offer Exhibit 329.

14 THE COURT: Any objection to 329?

15 MR. TANASI: No objection from Mr. Stewart.

16 MR. MARCHESE: None from Parker.

17 MR. MYHRE: May we publish?

18 THE COURT: Mr. Leventhal?

19 MR. LEVENTHAL: No, Your Honor, on behalf of
20 Mr. Drexler.

21 MR. ENGEL: No from Engel.

22 MR. PEREZ: No on behalf of Mr. Lovelien.

23 MR. JACKSON: No objection from Mr. Burleson.

24 THE COURT: Thank you. So, Exhibit 329 will be
25 admitted, and you may publish it.

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1 (Exhibit 329 admitted.)

2 MR. MYHRE: Thank you, Your Honor.

3 Q. And just generally looking at Exhibit 329, this -- we see
4 here on this map -- we see the Interstate 15; is that correct?

5 A. That's correct.

6 Q. Where were you going to -- well, first of all, show the
7 area of the Toquop Wash if you would.

8 A. This line here would represent the general flow of the
9 Toquop Wash.

10 Q. And the witness has drawn a red line from the top to
11 bottom of the screen outlining the general vicinity of Toquop
12 Wash.

13 Where was the actual area where the impoundment
14 operations would be conducted? Where was that located?

15 A. We chose this area here as the location for our base of
16 operations.

17 Q. And the witness has indicated with a circle drawn on
18 Exhibit 329 about approximately middle of the top of the page.

19 And if I could ask you if you could clear that for
20 me, please. How -- how would one gain access to that
21 particular area?

22 A. There were two primary ways to access the area. If you
23 were traveling from Mesquite, you would travel on southbound
24 Interstate 15.

25 Now, as you can tell from this map, Interstate 15

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1 runs more in an east/west direction here, but it's still
2 considered north or southbound Interstate 15. So if you were
3 coming from Mesquite, you would travel on southbound Interstate
4 15 and exit right there.

5 Q. Okay. The witness has drawn a red line approximately
6 where the entrance is to the -- off of 15 about three-quarters
7 of the way down the page and a little bit left of center.

8 What is the second means of access?

9 A. The second means would be if you were coming from the Las
10 Vegas area, you would travel on northbound Interstate 15. You
11 would have to cross over the median here and into the main
12 entrance to the -- to the Toquop Wash area.

13 Q. Thank you. And the witness has indicated with a red line
14 that route of entrance as well. Again, about three-quarters of
15 the way down the page to the left of center.

16 Now, if you would clear that. Now, where the 15
17 crosses over the area of the Toquop that you indicated, is that
18 a natural access into that area?

19 MR. LEVENTHAL: I'm going to object as to "natural,"
20 Your Honor. I don't know what that means.

21 THE COURT: Do you want to rephrase that?

22 BY MR. MYHRE:

23 Q. Sure. Is that an access -- a means of access to that
24 area?

25 A. It could be, yes.

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1 Q. Is it normally accessible by automobile?

2 A. It would depend on the terrain. The terrain changes if
3 there's a storm. But it -- it potentially could be accessed by
4 an automobile.

5 Q. Well, I asked a poor question. I apologize.

6 Is that area under that bridge, is that -- is that
7 improved surface, unimproved surface, something you would
8 expect for just normal, everyday vehicles?

9 A. No. And a normal street vehicle would not access the area
10 through that direction.

11 Q. Now, in selecting this particular site, did you have in
12 mind how security would be provided for the site?

13 A. Yes.

14 Q. And what was the general concept in terms of providing
15 security for the site?

16 A. The general concept was that this area was enclosed or
17 encompassed in part of the closed area for the operation, and
18 it would need to be secured by -- by controlling the access
19 points so unauthorized individuals didn't come into that area
20 while we were operating.

21 Q. Now, if I could ask you to look at Exhibit 328 in the
22 book, please.

23 A. Okay.

24 Q. And do you see that before you? What is depicted in
25 Exhibit 329?

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1 A. That's a bit of a closer-up view from the previous exhibit
2 we were looking at, and it shows the -- the gravel pit area of
3 the Toquop Wash where we set up our base of operations.

4 MR. MYHRE: Okay. Your Honor, we would offer
5 Exhibit 328 as well.

6 THE COURT: Any objection to Exhibit 325 [sic]?

7 MR. TANASI: No objection from Mr. Parker, Your
8 Honor. Mr. Stewart, Your Honor.

9 MR. MARCHESE: None from Parker.

10 MR. LEVENTHAL: None from Mr. Drexler.

11 MR. ENGEL: None from Engel.

12 MR. PEREZ: None from Lovelien.

13 MR. JACKSON: No objection from Mr. Burleson.

14 THE COURT: All right. Exhibit 325 will be admitted.

15 MR. MYHRE: Exhibit 328, Your Honor. I'm sorry. I
16 may have misspoken.

17 THE COURT: Oh, 328. Any objection to 328?

18 MR. TANASI: No objection from Mr. Stewart, Your
19 Honor.

20 MR. MARCHESE: None from Parker.

21 MR. LEVENTHAL: No, Your Honor. Not from
22 Mr. Drexler.

23 MR. ENGEL: None from Engel.

24 MR. PEREZ: None for Mr. Lovelien.

25 MR. JACKSON: None from Mr. Burleson.

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1 THE COURT: All right. So Exhibit 328 will be
2 admitted.

3 MR. MYHRE: Thank you, Your Honor. May we publish?

4 THE COURT: Yes, you may.

5 (Exhibit 328 admitted.)

6 BY MR. MYHRE:

7 Q. As you mentioned, Agent Stover, this is more of a close-up
8 of the area where the impoundment was going to be conducted.
9 You mentioned this was a gravel pit area, so I was going to ask
10 you, what is just the general makeup of the terrain in this
11 area?

12 A. Most of that terrain there in the -- in the -- the
13 semi-gray shaded area was a flat -- mostly flat, level, graded
14 area consisting of gravel and dirt.

15 Q. And there were no -- nothing, at least in this exhibit,
16 depicts any permanent structures of any sort?

17 A. No. There are a few berms of gravel kind of pushed up
18 that you can see, but there were no permanent structures.

19 Q. And was there -- were there any utilities there, for
20 example, water, or electricity, or anything of that nature?

21 A. No.

22 Q. So in order to conduct this operation, what would you have
23 to do in order to use buildings or use structures in this
24 particular area?

25 A. The BLM had to bring in temporary buildings, portable

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1 toilets, generators, lights, things of that nature.

2 Q. How far was this site located from where Mr. Bundy's
3 property was located as we saw in the previous map?

4 A. The entrance to the Toquop Wash off of Interstate 15, as I
5 was describing, to Mr. Bundy's property is about 7 miles.

6 Q. Was that a factor -- that is the distance from Mr. Bundy's
7 property, was that a factor in choosing this particular site?

8 A. Yes.

9 Q. And how was it a factor?

10 A. It was one of the factors that we considered, because we
11 knew that this issue had been going on for a long time, that
12 there were contentious issues with this issue, and we did not
13 want to set up a base of operations right next to where
14 Mr. Bundy's residence was located.

15 We wanted to make every consideration we could for
16 the Bundy family to set up our base of operations a distance
17 away from their private property.

18 Q. Was it part of the plan that you would be collecting or
19 gathering cattle from Mr. Bundy's property?

20 A. That was part -- not from his private property, no.

21 Q. So it would not -- your operation would not affect his
22 private property; is that correct?

23 A. No, it would not.

24 Q. It would only -- and in terms of your concept of
25 operation, not in terms of just the -- what actually occurred,

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1 but in terms of the concept of operations, did any of those
2 concepts include entering upon Mr. Bundy's property?

3 A. No.

4 Q. Now, this area that's depicted on 328, is this high ground
5 or low ground?

6 A. That's relatively low ground compared to the surrounding
7 area.

8 Q. In terms of providing security for that, is that an
9 advantage or disadvantage for providing security?

10 A. Generally speaking, securing low ground is a disadvantage.

11 Q. And why is that?

12 A. Because there are several elevated points around you where
13 people could see down into the base of operations, it's not as
14 ideal as securing an area of higher ground.

15 Q. Okay. And you knew that going into this particular
16 operation?

17 A. Yes.

18 Q. Knowing that, why would you still choose to use the lower
19 ground here?

20 A. Well, there were several factors that led to us choose
21 this site, and some of the factors we could not -- not every
22 factor was ideal, so we had to weigh the -- a balance of the
23 various needs of the operation.

24 Q. Where this site is located in 328, is this easily seen
25 from the Interstate 15, for example?

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1 A. You -- if you are driving at freeway speed past this area,
2 you see it for -- for a brief moment as you pass by.

3 Q. Would you call it -- would you describe it as conspicuous
4 or inconspicuous from the freeway?

5 A. I would generally characterize it as inconspicuous.

6 Q. Okay. I'd like to talk then a little bit about the plan
7 itself, your security plan, not only for this site but for the
8 operation. Okay?

9 A. Okay.

10 Q. You talked about the concept of using contractors. Who
11 would provide security for the contractors?

12 A. The various federal law enforcement agencies that were
13 assigned to the operation would provide security for the
14 contractors.

15 Q. And who would -- what agencies were going to be assigned
16 to security?

17 A. We had BLM law enforcement officers and National Park
18 Service law enforcement officers as well as a small number of
19 US Forest Service law enforcement officers.

20 Q. Where were Park Service officers assigned to this
21 operation?

22 A. Some of this operation involved cattle that had encroached
23 on to National Park Service land around the Lake Mead National
24 Recreation Area. So some of their lands were affected.

25 Q. So, because those lands were affected, then they were

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1 involved as well?

2 A. That's correct.

3 Q. How many officers did you estimate you would need for this
4 to provide security for this operation?

5 A. Well, we had approximately 83 BLM law enforcement
6 officers, approximately 23 Park Service law enforcement
7 officers, three Forest Service officers, and then for a few
8 days during the operation, there were also approximately 25 FBI
9 officers, special agents.

10 Q. All right. So, that's well -- that's over 100 law
11 enforcement officers; is that correct?

12 A. Correct.

13 Q. Okay. Did you believe that was too many, insufficient,
14 just right? What was your estimate based on for your planning?

15 A. Well, based on all the planning that we did, I personally
16 felt that it was low, but it was what we had, and that's -- and
17 that's what we built the operation around.

18 Q. When you say "that is what we had," what are you referring
19 to?

20 A. Those were the personnel that were available.

21 Q. Well, how many law enforcement officers are there within
22 the BLM?

23 A. Well, if we are -- if BLM is fully staffed, which to my
24 knowledge, since I've been with the BLM in 2009, we have never
25 been fully staffed. We would have -- if we were fully staffed,

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1 we would have 200 and -- approximately 254 uniformed rangers
2 and approximately 90 special agents.

3 Q. So, and that covers the -- that number of officers covers
4 the 245 plus million acres you talked about before?

5 A. Yes. Correct.

6 Q. So of the 83 of BLM resources, that included both special
7 agents and rangers; is that correct?

8 A. It did, yes.

9 Q. Did they all come from the state of Nevada or did they
10 come from elsewhere?

11 A. They came from various states.

12 Q. How were they assigned to this operation?

13 A. Some of them were -- we asked for volunteers. Some of
14 them volunteered. Others were assigned by their supervisors.

15 Q. With respect to the Park Service, where did they come
16 from?

17 A. They came from various states in the Western Region as
18 well.

19 Q. So is it -- is it fair to say that the vast majority of
20 people involved in this did not have that much familiarity with
21 the area?

22 A. That's fair to say, yes.

23 Q. Now, in order to effect the operation, you talked about
24 hiring contractors. Did you, in fact, enter -- did you, being
25 the BLM -- did the BLM actually enter into a contract with an

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1 organization to collect the cattle or gather the cattle?

2 A. Yes, the BLM did.

3 Q. And who did they contract with?

4 A. They contracted with a company call Sampson Livestock.

5 Q. And Sampson Livestock is located where?

6 A. In Utah.

7 Q. Now, once the cattle were collected, how were you going to
8 dispose of them?

9 A. The cattle would be -- would be transported to an auction
10 facility in Utah.

11 Q. And did the BLM enter into a contract with that auction
12 facility?

13 A. They did.

14 Q. And what was the name of that facility?

15 A. It's -- the name of the facility is 'R' Livestock
16 Exchange.

17 Q. And you said 'R' Livestock was located in Utah; is that
18 correct?

19 A. That's correct.

20 Q. Were both of these contracts in place then before April of
21 2014 when the operation actually began?

22 A. Yes, they were.

23 Q. Now, when cattle were to be gathered and collected off of
24 the public lands, did the -- how would the contractors go about
25 finding out where they are going to be finding -- locating

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1 these cattle and gathering them?

2 A. Well, as the operation was about to start, the contractors
3 did three-days' worth of aerial and ground surveillance, for
4 lack of a better term, to make a best guess estimate of where
5 the cattle would be when we started operating.

6 Q. Was there a -- did they publish a plan or were there
7 discussions in terms of where they would be operating and when
8 they would be operating?

9 A. I'm sorry. I don't understand the question.

10 Q. Sure. So, you said they did this aerial surveillance;
11 right? Located the cattle?

12 A. Correct.

13 Q. Okay. From there, was there any planning done in terms of
14 how they would go about -- excuse me -- when and where they
15 would do the collection? Was that something they discussed
16 every day, or was there, like, a written plan?

17 A. Yes, it was discussed. They had a daily briefing amongst
18 the contractors and the BLM representative that was working
19 directly with the contractors. And they would make a
20 determination on where they would operate on any given day.

21 Q. Now, once that determination was made, how would security
22 be provided for these contractors?

23 A. Once the contractors decided where they wanted to operate,
24 the BLM representative that was working closely with them would
25 come to me and let me know the area, the general area of

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1 operation, and then it was my job to develop a security plan
2 for that area where they were going to be working on that
3 particular day.

4 Q. Now, I want to talk a little bit about in terms of
5 physical security on the ground. How would these be done?
6 How -- would the officers accompany the contractors to the
7 field?

8 A. Yes, the -- we had officers that were assigned to escort
9 the contractors in to and out of the operational area every
10 day.

11 Q. Did you develop a plan for concentric rings of security?

12 A. I did.

13 Q. What was that plan?

14 A. The general plan of our security operation was to -- to
15 have concentric rings of security. In -- on a typical day, the
16 contractors would identify an area where they wanted to gather
17 cattle, and they would estimate approximately how far out
18 distance-wise that they could gather cattle.

19 They would set up an area known as a temporary trap
20 site, meaning that's where they were going to try and get the
21 cattle to congregate and load them into -- load them into
22 trucks. So, we developed concentric rings of security around
23 that designated temporary trap site.

24 Q. So, a trap -- you had mentioned the word "trap site." Is
25 this like a trap we see for wild game, or is it a corral, or

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1 what exactly do you describe as a trap site?

2 A. No, what they did was they used temporary cattle fencing.
3 They would set up panels. Or if there was an existing historic
4 corral out in that area, they might use that. But they would
5 set up, most often, temporary cattle fencing to move the cattle
6 into and get them to congregate into one spot.

7 Q. Would they use anything to attract the cattle to this
8 area?

9 A. I'm sorry. To track?

10 Q. Sure. Would they -- would they use bait for the trap
11 site?

12 A. The contractors did do what's called bait trapping on
13 occasion.

14 Q. Okay. So, once -- just so we can conceptualize this --
15 how this trap system worked. Why were traps used as opposed to
16 just going out there and roping the cattle and bringing them
17 in?

18 A. Well, these cattle were not domesticated cattle. They
19 were not used to human contact as you might think of most --

20 MR. MARCHESE: Objection. Foundation.

21 BY MR. MYHRE:

22 Q. Were you, as part of --

23 THE COURT: You can reask it.

24 BY MR. MYHRE:

25 Q. As part of your planning process -- as part of your

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1 planning process, did you consult with the contractors about
2 the nature of these cattle?

3 A. I did.

4 Q. And were you -- as a result of that consultation, were you
5 familiar with how these cattle behaved?

6 A. I was informed by the contractors a general idea of how
7 they behaved.

8 MR. JACKSON: Objection. Hearsay.

9 MR. MYHRE: It wasn't offered for the truth of the
10 matter asserted, Your Honor. It was his understanding as to
11 the nature of these cattle.

12 MR. MARCHESE: Your Honor, that's --

13 THE COURT: Mr. Marchese.

14 MR. MARCHESE: The understanding of the nature of the
15 cattle is not an exception to hearsay rule. It is offered for
16 the truth of the matter asserted.

17 MR. MYHRE: It's whatever he understood, Your Honor.
18 We're trying to advance proof of what the security plan was and
19 why it operated the way it did. And this agent is the direct
20 planner in that, so his understanding of what he had to prepare
21 for is -- is relevant.

22 THE COURT: All right. So I will admit it as
23 evidence of the effect that this information had on the hearer
24 of the information, which is the witness, not whether or not --
25 it's not offered for the truth of the matter asserted, but it

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1 is offered for the effect that it had on this particular person
2 who was in charge with planning something, and so in order to
3 establish what it was he did and why.

4 MR. MYHRE: Thank you, Your Honor.

5 Q. So, moving forward, we -- you talked about the corral; the
6 trap site if you will.

7 Now the concentric rings, how close and or far away
8 from the corral what the first inner ring be?

9 A. It varied from day to day depending on the terrain of
10 where the contractors was going on operate.

11 Q. And what would be the variance? Would it be -- would they
12 be close in? Far away?

13 A. The general rule we tried to follow was that the inner
14 ring of security would be fairly close in close proximity to
15 where the actual trap site was.

16 The middle ring of security would be approximately 1
17 to 2 miles out from the trap site dictated by terrain.
18 Sometimes it was a little less. Sometimes it was a little
19 more.

20 The outer ring of security would be pushed out to
21 where major potential access points into that area would --
22 were located whether it be a paved road, or a major gravel
23 road, or a scenic byway, or something to that effect.

24 Q. So what was then the purpose of the -- you discussed that
25 they were near or located near egress and ingress areas. What

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1 was their purpose?

2 A. Their purpose was primarily to educate people that the
3 area was closed, that there was a cattle gather operation going
4 on, that there was a temporary closure order in place, and to
5 ask them to depart the area while -- for their own safety while
6 this was going on.

7 Q. And with respect to the second ring in from that, what was
8 their purpose?

9 A. Their purpose was in the event that someone, whether
10 knowing or unknowing, got past the outer ring of security and
11 got a little bit closer, the inner ring of security, their job
12 was to try and intercept them on their course of travel. Stop
13 them. Again, educate them. Let them know what was going on,
14 that they couldn't come into the area because of the trapping
15 operation, and for safety concerns, and to prevent them from
16 getting any closer to where the cattle were being trapped.

17 Q. So, and the last ring was -- what was their purpose?

18 A. The last ring was the -- the last ring of security closest
19 to where the cattle operation was, that was the -- essentially
20 the last line of security defense, if you will.

21 And if somebody were to get past those first two
22 rings of security, that inner ring would also do the same
23 thing. It would try and stop people from encroaching into
24 where the cattle were operating, to keep them away from the
25 contractors, the employees that were working there, the cattle

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1 that may be in the trapping location.

2 Q. Now, how many officers -- combined for these three rings,
3 how many officers would typically be assigned to that detail?

4 A. Oh, for the inner ring of security, we had approximately
5 four individuals. The intermediate ring of security was, I
6 believe, 12, approximately 12 officers. And the outer ring of
7 security was also probably approximately 10 to 12 officers.
8 Unless there were more ingress/egress routes and we needed more
9 officers to cover them, we would add more.

10 Q. So it a fair estimate between 20 to 30 officers depending
11 on where they are operating?

12 A. I think that's probably a fair estimate.

13 Q. Now, I want to talk a little bit about the actual
14 commencement of the operation. And we talked about -- you
15 mentioned closure orders or closure of the land.

16 When you say that the area is "closed" what is --
17 does that have a particular specific meaning to the BLM and to
18 those involved with public lands?

19 A. It does.

20 Q. And what is that meaning?

21 A. Well, under the BLM regulations and the Code of Federal
22 Regulations, the BLM -- an authorized officer of the BLM has
23 the authority to temporarily close an area of public lands for
24 public safety purposes, to provide for the safety of the
25 public, or the safety of government employees, or the safety of

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1 contractors that might be working in the area.

2 Q. When you say they close it to the public, does that mean
3 the public just can't go in?

4 A. It would depend on the particular situation. But
5 sometimes it does mean that, yes.

6 Q. For this situation, with the 500,000 acres we were talking
7 about, was there a closure order issued?

8 A. Yes, there was.

9 Q. Okay. Where was that -- where could the public find that
10 order?

11 A. The -- the order was published in the Federal Register.
12 It was also available at the controlling BLM --

13 MR. MARCHESE: Objection. Hearsay.

14 MR. MYHRE: It's a matter of public record, Your
15 Honor.

16 THE COURT: Overruled.

17 BY MR. MYHRE:

18 Q. Where could they -- where could the public find this
19 order?

20 A. They could find it at the local BLM office. They could
21 also find it on the BLM website.

22 Q. Now, with respect to the impoundment operation of 2014,
23 was -- what was the duration for this particular closure?

24 A. The temporary closure order went into effect on
25 March 27th, 2014, and was scheduled to expire May 12th of 2014.

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1 Q. So, about six weeks or so? Somewhere in there?

2 A. Correct.

3 Q. Well, with respect to this particular closure, you've
4 discussed how the gather would move from place to place or at
5 least that was the plan; correct?

6 A. That's correct, yeah.

7 Q. Did the closure order apply just to the area where they
8 were gathering or to the entire area?

9 A. It was listed in the closure order that it would be
10 enforced in -- only in the areas where the operation was taking
11 place. Because it was such a vast area, even though all
12 578,000 -- approximately 578,000 acres were listed in the
13 closure order, it specifically said that the enforcement of
14 that closure order would -- would be primarily enforced in the
15 areas where the -- where the operation was occurring on any
16 given day.

17 Q. Now, in connection with an impoundment operation such as
18 this, before you start, do you also issue a notice to the
19 public that you will be conducting an impoundment operation?

20 A. Yes.

21 Q. If you'd look at Exhibit 8 for me, please.

22 A. Okay.

23 Q. What is Exhibit 8?

24 A. Exhibit 8 is a Notice of Intent to Impound Unauthorized
25 Livestock.

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1 Q. The date?

2 A. It's dated March 19th, 2014.

3 Q. And does this apply to the impoundment of Mr. Bundy's
4 cattle?

5 A. It does.

6 Q. And was this generally published to the public?

7 A. It -- yes, it was.

8 MR. MYHRE: Your Honor, we offer Exhibit 8.

9 THE COURT: Any objection to Exhibit 8?

10 MR. TANASI: No objection from Mr. Stewart, Your
11 Honor.

12 THE COURT: Mr. Marchese?

13 MR. MARCHESE: Same objection, Your Honor. I think
14 there's been a lack of foundation. I don't think this
15 individual -- he's not the author of this particular document.
16 He doesn't have the personal knowledge to testify as to its
17 authenticity.

18 THE COURT: Mr. Myhre.

19 BY MR. MYHRE:

20 Q. Do you have personal knowledge of Exhibit 8?

21 A. During the planning process, I was shown this document by
22 the -- some of the civilian staff at the Southern Nevada
23 District Office -- the BLM Southern Nevada District Office.

24 Q. And you testified that your understanding was that this
25 notice of intent would have to be published before you could

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1 commence your operations; is that correct?

2 A. That's correct.

3 Q. So this would have been a document necessary for you to
4 conduct the impoundment operation?

5 A. It's consistent with the regulations that the BLM operates
6 under, yes.

7 MR. MYHRE: Your Honor, we still offer Exhibit 8.

8 THE COURT: All right. Anyone else have an
9 objection? Mr. Leventhal?

10 MR. LEVENTHAL: No objection on behalf of
11 Mr. Drexler.

12 MR. ENGEL: No objection from Engel.

13 MR. PEREZ: No objection on behalf of Lovelien.

14 MR. JACKSON: Just objection as to relevance as to my
15 client.

16 THE COURT: The objections are overruled. Exhibit 8
17 is admitted.

18 (Exhibit 8 admitted.)

19 BY MR. MYHRE:

20 Q. And if I could, again, just direct your attention -- oh,
21 may I publish, Your Honor?

22 THE COURT: Yes, you may.

23 MR. MYHRE: Thank you.

24 Q. In directing your attention to page 2, do you see about
25 the third paragraph down, is that -- do you see that paragraph?

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1 A. Yes, I do.

2 Q. And are those the areas that are affected by the
3 impoundment operation?

4 A. Yes. They are.

5 Q. Now, at the bottom, it states that a map shows the areas
6 subject to this impoundment may be obtained by contacting the
7 BLM. Is that correct?

8 A. That's correct.

9 Q. So, if someone -- if a member of the public wanted to know
10 what this was all about, they could -- could they go to a
11 particular office of the BLM?

12 A. They could. They could go to the office that's listed
13 there on that -- on that paper.

14 Q. And if they went to that office, would they be able to
15 obtain this document we're looking at?

16 A. Yes.

17 Q. Turning to page 3. Now, there appears to be a number of
18 locations on page 3. Do you see that?

19 A. I do.

20 Q. It says US Post Office locations and courthouse locations;
21 is that right?

22 A. That's correct.

23 Q. And what is -- what does this portion of the notice refer
24 to?

25 A. This refers to physical locations where a copy of this

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1 notice of intent to impound were physically posted.

2 Q. So if a member of the public went to one of the locations
3 listed on page 3, they would be able to find a copy of this
4 document?

5 MR. LEVENTHAL: Your Honor, I am going to object as
6 to first-hand knowledge of actually where these were. He
7 indicated that he saw this later on when he was putting his
8 operational plan together, not as to each and every individual
9 that he's now testifying to whether this was there.

10 THE COURT: You can ask him if he can lay a
11 foundation for the availability of these documents. We know
12 that he saw it himself, and I'm letting the -- I'm admitting
13 it, because this is the document that he's testifying that he
14 said that he used during the operation.

15 But as far as whether -- where it's available, which
16 library, which website, if he knows, that's okay. But just
17 generally that's not sufficient.

18 BY MR. MYHRE:

19 Q. Well, Agent, is -- looking at this list, in the normal
20 course of business, would -- the notice of impoundment has to
21 list where it's going to be published, or excuse me, posted; is
22 that correct?

23 MR. MARCHESE: Objection. Leading.

24 MR. MYHRE: Well, I'm trying to lay the foundation,
25 Your Honor. I'm not certain this is absolutely critical

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1 testimony. It seems rather pedestrian, but I can rephrase.

2 THE COURT: All right. Go ahead and rephrase.

3 BY MR. MYHRE:

4 Q. So looking at page 3, do you see these locations there?

5 A. Yes, I do.

6 Q. Okay. Are you personally aware of whether this document
7 was posted at these particular locations?

8 A. I did not visit these locations to see them physically
9 posted.

10 Q. All right. Now, in the normal course of business, would a
11 document like this list these locations if they weren't going
12 to be posted there?

13 A. No.

14 Q. Now, turning to the next page, page 4, it says "Mesquite
15 Local News Proof of Publication." What is this document?

16 A. It's -- this document indicates that a lady named Stacey
17 Lewis authorized the -- this document was published on behalf
18 of the Bureau of Land Management in the Mesquite local news.

19 Q. So in addition to physical locations -- this document
20 being posted -- would it also have to be published in
21 publications available to the public?

22 A. Yes.

23 Q. Now, did BLM make any attempts -- aside from in the notice
24 that we just talked about and the closure order, were there any
25 attempts to reach out, on your behalf, to the Bundy family?

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1 That is for BLM to reach out to the Bundy family that you are
2 aware of?

3 A. Yes.

4 Q. Yes. And so -- and did they -- did the BLM attempt to
5 reach out to the Bundy family to let them know that an
6 impoundment operation would be commencing in their area?

7 MR. LEVENTHAL: I am going to object, Your Honor.
8 He's being asked about what BLM has done not what he's
9 personally done.

10 THE COURT: Sustained. If it's something that he, in
11 the ordinary course of his duties, needs to know about before
12 he takes the next step, then maybe he has some personal
13 information. Otherwise, I think it is hearsay at this point.

14 MR. MYHRE: Thank you, Your Honor.

15 Q. So as the Operations Security Chief -- excuse me --
16 Operations Section Chief for the impoundment operation, did you
17 supervise a number of law enforcement officers?

18 A. I did.

19 Q. And as part of those supervisory responsibilities, did
20 you -- did you become aware of any attempts to reach out to the
21 Bundy family members?

22 A. Yes.

23 Q. And were these attempts made by people who directly worked
24 for you?

25 A. Yes.

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1 Q. And did they report back to you?

2 A. Yes.

3 Q. And did you receive reports back that they attempted to
4 reach out to the Bundy family?

5 A. Yes.

6 Q. And did you receive reports back as to whether or not the
7 attempts to reach out to the Bundy family members were well
8 received or not well received?

9 MR. MARCHESE: Objection. Hearsay.

10 MR. MYHRE: Again, showing the effect on the
11 listener, Your Honor. To show what steps he would take in
12 connection with providing security operations.

13 THE COURT: Overruled. You may go ahead and answer
14 the question.

15 THE WITNESS: Yes, it was not well received.

16 BY MR. MYHRE:

17 Q. Now, in conducting an operation of this type and providing
18 security for an operation of this type, would you normally put
19 together or create a threat assessment?

20 A. Yes.

21 Q. And what is a threat assessment?

22 A. In general terms, it's an analysis of the potential for
23 interference or impence of the operation weighed against all
24 the factors that were available to us at that time.

25 Q. And you talked about earlier some of the information that

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1 you would access for conducting this threat assessment;
2 correct?

3 A. Correct.

4 Q. Now, did you have members -- assigned to your staff or the
5 staff of the impoundment operation -- who would be responsible
6 for gathering this information to compile to create a threat
7 assessment?

8 A. Yes.

9 Q. Would this be a living document or a living process or
10 would it just be a single point in time?

11 A. It was an ongoing process until a certain point, and then
12 it had to be finalized before we went operational.

13 Q. Now, before going operational, what was -- how would you
14 normally characterize a threat of an area or a threat to an
15 operation? What are the various categories of threats?

16 A. Well, in this particular operation, we looked at three
17 categories. We looked at potential threats that -- that might
18 come from Mr. Bundy or his immediate family or relatives in the
19 local area.

20 We looked at potential threats that might come from
21 outside entities or outside groups. And we looked at potential
22 threats that might come from antigovernment extremist-type
23 groups or animal activist-type groups, animal rights groups.
24 That sort of thing.

25 Q. And in terms of coming to a level of threat, do you

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1 evaluate it by intensity? By some other means?

2 So in other words, is it -- do the terms "low-risk,
3 high-risk threat"? Does that have any significance?

4 MR. LEVENTHAL: Your Honor, it's leading. All he has
5 to do is ask him what was the threat.

6 THE COURT: Rephrase your question.

7 MR. LEVENTHAL: Object as to leading.

8 MR. MYHRE: Okay.

9 THE COURT: Sustained. Please rephrase.

10 BY MR. MYHRE:

11 Q. So in assessing the threat or coming up with the threat
12 assessment, if you will, how do you categorize the threat?

13 A. We used our threat assessment, and we -- the final rating
14 was either going to be a low, a moderate, or a high. And
15 our -- the final threat assessment was rated at a moderate
16 level.

17 Q. So when you say it was moderate, what does that mean to
18 you when conducting security operations?

19 MR. JACKSON: I'm going to object, Your Honor. What
20 moderate means is moderate. There's no -- you can't, you know,
21 characterize what it means now any more than that.

22 THE COURT: Overruled. He can characterize what it
23 means if he's the person who assessed as moderate to explain
24 why it's moderate and not severe and not minor.

25

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1 BY MR. MYHRE:

2 Q. So, again, the question is, what does that mean when you
3 say "We assessed it at a moderate level"?

4 A. We assessed it at a moderate level meaning that on the
5 full spectrum of potential threats to the operation, low being
6 virtually no threat or minimal interference, high being an
7 absolute likelihood that some kind of interference or violent
8 encounter would occur, a moderate was in the middle, meaning
9 that there was definitely the possibility of interference with
10 our operation, but it could not be definitively classified as
11 absolutely going to happen.

12 Q. I want to go back to one other concept that we talked
13 about with respect to the closure areas.

14 In conducting this operation, did you designate or
15 devise the areas known as First Amendment zones?

16 A. Those were listed in the closure order, yes.

17 Q. And what is a First Amendment zone?

18 A. Those -- generally speaking, those were -- there were two
19 areas that were identified as being places in close proximity
20 to the area that was closed, the boundary of the area that was
21 closed, where members of the public, if they wished, could go
22 to those areas and potentially view some of the operational
23 activities, express their opinions, if they wished, see what
24 was going on and, at the same time, not be in violation of the
25 area that was closed.

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1 Q. Were these First Amendment zones -- was this something
2 unique to this operation?

3 A. No.

4 Q. Are they used in other operations?

5 A. Yes.

6 Q. What's the purpose behind them?

7 A. Generally speaking, similar to what I just described.
8 It's an opportunity to provide an area that's safe for the
9 public, or members of the media, or someone that might be
10 affected by the operation that could get close to an area that
11 was closed, by BLM regulations, but they could still be in an
12 area where they could potentially see what was going on and
13 view the activity.

14 Q. Well, you mentioned it would be an area that was safe.
15 What were the safety considerations behind the First Amendment
16 zone?

17 A. Well, we -- first of all, the general public could not be
18 in the closed area when operations were going on, simply
19 because we had contractors working in the area. We had people
20 on horseback. We had helicopters flying, and we did not want
21 to put the public at risk by moving them into the closed area
22 and having them too close to those employees working or
23 contractors working where they would be at risk.

24 Q. Well, did you have trucks involved as well?

25 A. Yes.

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1 Q. So, in addition to helicopters, what -- how would the --
2 why would it be a safety issue for the trucks in a First
3 Amendment zone?

4 A. Could you rephrase that?

5 Q. Sure. It was a poor question on my part.

6 Okay. Were there safety considerations in connection
7 with the use of trucks during the impoundment operation?

8 MR. MARCHESE: Objection. It's leading.

9 THE COURT: Well, he's already stated that there are
10 safety concerns. We're just trying to figure out what they
11 are.

12 MR. MYHRE: Trying to get to what they are. Yes,
13 Your Honor.

14 THE COURT: Overruled. He can answer the question.

15 THE WITNESS: Yes, there were concerns about the
16 trucks.

17 BY MR. MYHRE:

18 Q. Okay. The trucks, what was the -- how were the trucks
19 going to be used during the impoundment operation?

20 A. The trucks would be used to transport the cattle that were
21 gathered at a particular trap site, from that trap site, back
22 to the base of operations, also called the incident command
23 post.

24 Q. Okay. And these trucks, are they big trucks or little
25 trucks?

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1 A. They were -- some of them were trucks with horse trailers,
2 or most of them were trucks with horse trailers pulled behind
3 them.

4 Q. And these trucks, what types of roads would they go over?
5 Would they go over paved, unpaved? What types of roads?

6 A. Well, they were -- they would have to try and go over
7 areas where the cattle were to be trapped, so some of them were
8 paved. Some of them were not paved.

9 Q. In the areas where they were trapped, would they be out in
10 the rural areas?

11 A. Yes.

12 Q. Would they be some distance from where the paved highways
13 were?

14 A. They -- they could be, yes.

15 Q. Were these First Amendment zones -- were they near or
16 close to these areas where these trucks would be traveling?

17 A. They were -- they were very close to areas that the trucks
18 would be driving in and out of.

19 Q. But what about in terms of out in the rural areas, the
20 unpaved areas?

21 A. No, they were not close to those areas.

22 Q. Okay. Let's take a look at Exhibit 330, please.

23 A. Okay.

24 Q. Do you see 330?

25 A. Yes.

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1 Q. And what is this?

2 A. That's an overview map of some of the general operational
3 area.

4 Q. So, it depicts some of the operational area for your
5 impoundment operation?

6 A. Yes, it does.

7 Q. Does it show State Route 170?

8 A. Yes.

9 Q. And does it show the Interstate 15?

10 A. Yes.

11 Q. And would these be routes of travels for your convoy?

12 A. Yes.

13 Q. And by convoy, I mean for the trucks.

14 A. Yes, that's correct.

15 Q. Would trucks -- would these trucks, during the -- during
16 the impoundment operation, would they move, you know, together?
17 Would they move separately? How -- what was the concept or the
18 plan for moving these trucks?

19 A. The concept was that they would move together. When they
20 were ready to go out and operate for the day, they would move
21 together. And then when they were done operating for the day,
22 they would come back together.

23 Q. Would there be officers providing security for those
24 trucks?

25 A. Yes.

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1 Q. Typically, how many trucks would be involved in a -- in
2 any -- on the average in a gather?

3 A. It varied from day to day depending on how many cattle the
4 contractors thought they could gather that day and how many
5 trucks they thought they would need.

6 Q. And when they gathered the cattle and put them in the
7 trucks, they would take them where?

8 A. They would transport them back to the base of operations
9 or what we called the incident command post.

10 Q. Okay. And so 330 is a map that helps depict some of those
11 routes of travel; is that correct?

12 A. That's correct.

13 MR. MYHRE: Your Honor, we offer Exhibit 330.

14 THE COURT: Any objection to Exhibit 330?

15 MR. MARCHESE: None from Parker.

16 MR. TANASI: None from Stewart, Your Honor.

17 MR. LEVENTHAL: Only foundationally, Your Honor, on
18 behalf of Mr. Drexler. I'd like to know foundationally when
19 these maps were created, if this is what he apparently used for
20 his operational plan, or are these created after the fact. I
21 know he said --

22 THE COURT: You can ask him that on
23 cross-examination. He's laid some foundation.

24 MR. LEVENTHAL: It's foundational. I can't say
25 whether I object to it or not, because I don't know whether he

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1 used these to determine whether or not he -- they were put in
2 his operational plan. So it's a foundational question.

3 MR. MYHRE: Well, perhaps I can just clear it up,
4 Your Honor.

5 MR. LEVENTHAL: That would be great. That's all I'm
6 asking.

7 BY MR. MYHRE:

8 Q. Does this map, is it a fair and accurate depiction of that
9 area in April of 2014?

10 A. Yes.

11 Q. Okay. And again, this shows the general area of
12 operations where the impoundment was being conducted; is that
13 correct?

14 A. Yes, it shows part of the area.

15 Q. It's part of the area. It's not the entire area; correct?

16 A. Correct. Not the entire area.

17 MR. LEVENTHAL: With that, I have no objection.
18 Thank you.

19 THE COURT: Mr. Engel, any objection?

20 MR. ENGEL: None from Engel.

21 THE COURT: Mr. Perez?

22 MR. PEREZ: No objection of behalf of Lovelien.

23 MR. JACKSON: No objection on behalf of Mr. Burleson.

24 THE COURT: Thank you. So Exhibit 330 will be
25 admitted. Did you want to publish it?

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1 (Exhibit 330 admitted.)

2 MR. MYHRE: Yes, if we may, Your Honor.

3 THE COURT: Go ahead.

4 BY MR. MYHRE:

5 Q. Okay. Referring to Exhibit 330, generally speaking, could
6 you just outline for us where State Route 170 is depicted on
7 this map?

8 A. Yes, I can. Sorry. Not a very good drawing there. This
9 line here follows Highway 170.

10 Q. Okay. And the record should reflect the witness has
11 depicted it with a red line, cutting through the middle of the
12 map, generally following the outline of the -- of the road.

13 Now, this area where I'm circling, which intersects
14 the State Route 170, what is that area there?

15 A. That's part of Highway 170, and there -- inside that
16 circle you drew, there's a bridge that goes over the Virgin
17 River.

18 Q. Now, down from that area where the bridge is crossing the
19 Virgin River, we see a square or a box there. What is depicted
20 in that box?

21 A. The area inside that purple box indicates Mr. Cliven
22 Bundy's private property.

23 Q. And if you could draw a circle around the area generally
24 where the impoundment site or the operation is located.

25 A. Can you refer to a particular day? Because it varied.

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1 Q. No, I meant for the entire operation. Where was your
2 impoundment site located?

3 A. Oh, the incident command post?

4 Q. Okay. We will work on our terminology here. Okay? You
5 refer to incident command post. What is -- what does that
6 mean?

7 A. That was the permanent location that we had our -- the --
8 our base of operations.

9 Q. When we drew that little circle around that wash area, do
10 you remember that a couple of exhibits ago?

11 A. Yes.

12 Q. That's what you refer to as the incident command post?

13 A. That's correct.

14 Q. What would be located at the incident command post?

15 A. At that location, we would have the temporary buildings
16 that I discussed, some corrals to hold the cattle that were
17 gathered and transported back there. There was feed and water
18 for the cattle. The temporary restrooms that we brought in for
19 the employees, vehicles.

20 Q. So that's where the cattle were kept?

21 A. Correct.

22 Q. Now, if you could, could you just circle that on this map
23 here?

24 A. Yes.

25 Q. Great. Thank you. And, of course, just south of that

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1 area is the Interstate 15; is that correct?

2 A. That's correct.

3 Q. So, now you talked, I believe earlier, in terms of the
4 location of that site relative to the Bundy Ranch was
5 approximately how far?

6 A. From that area that I just circled to the Bundy Ranch,
7 approximately 7 miles.

8 Q. Now, how about from the area where we've circled, which is
9 that bridge on State Route 170, to the incident command post?

10 A. That distance is about five and a half miles.

11 Q. And that's five and a half miles following State Route 170
12 to the north toward 15?

13 A. Correct.

14 Q. Because it looks like State Route 170 also goes off to the
15 east and north; is that correct?

16 A. That's correct.

17 Q. And does that end up where?

18 A. That will end up in Mesquite.

19 Q. So that's a longer route to get to the incident command
20 post?

21 A. Correct.

22 Q. Now, is the area that you designated as a First Amendment
23 zone, is that located on this map?

24 A. Yes, one of the areas is.

25 Q. Okay. Would you please just draw a circle around that as

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1 well.

2 And the record should reflect that you have drawn a
3 circle around what appears to be entrance and exit ramps off/on
4 to the 15?

5 A. Correct.

6 Q. Do you know -- does that entrance area have a particular
7 number?

8 A. It's exit number 112.

9 Q. Exit 112?

10 A. Exit 112, yes.

11 Q. Now, how was the First Amendment zone -- how was that
12 demarcated or designated? How was it marked?

13 A. It was -- it was marked by some temporary orange snow
14 fencing. I think it's commonly referred to as snow fencing.

15 Q. And there was a sign on it?

16 A. And there was a sign, yes.

17 Q. How large of area was encompassed by this fencing?

18 A. I don't know.

19 Q. Was it more than 10 acres?

20 A. No.

21 Q. Was it substantially smaller than 10 acres?

22 A. Yes.

23 Q. Was it located under the bridges there, or at the entrance
24 ramp, or toward the entrance ramp, just generally speaking?

25 A. Generally speaking, if you were traveling on southbound

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1 Interstate 15 towards Las Vegas, and you exit, and you took the
2 exit number 112, as you came to the bottom of the ramp, that's
3 where the area was located.

4 Q. Now, was there any -- you said there was a second area.
5 Is that not depicted on this map?

6 A. No, it's not on here.

7 Q. Just generally speaking, where was that second area?

8 A. It was generally at the intersection of Highway 170 and
9 White Rock Road.

10 Q. Would that be north and east?

11 A. That would be north and east on Highway 170 towards
12 Bunkerville and Mesquite.

13 Q. And 170 is also known as Riverside Road?

14 A. Yes.

15 Q. So if you could just generally describe once cattle were
16 gathered, at least in this area, the general route of travel to
17 get to the incident command post?

18 A. Sure. If -- may I draw on this?

19 Q. Yes.

20 A. If, for example, cattle were gathered from up in this area
21 here --

22 Q. And the record should reflect drawing a circle in the
23 lower right-hand corner of the map.

24 A. Once the operation was concluded, the contractors and the
25 law enforcement officers working with them would drive on a

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1 route back towards Highway 170, and then they would either
2 drive -- they would either turn left on Highway 170 and head
3 towards Interstate 15 and back to the incident command post, or
4 they could turn right on Highway 170 and go towards Mesquite,
5 eventually end up back on the interstate and drive back to the
6 incident command post.

7 Q. So now from this circle that you've drawn, if the
8 operation were conducted there, how would the truck get from
9 that circle to the -- to the Riverside Road area?

10 A. I'm sorry.

11 Q. How would the trucks -- what would be the route of travel
12 for the trucks from this circle that you've drawn to the
13 Riverside Road? Was there --

14 A. Depending on -- depending on exactly where they were,
15 there are some gravel roads in this area, that go towards
16 Highway 170, that they could take to get back on Highway 170,
17 and then make a turn left or right once they reached Highway
18 170.

19 Q. So you've drawn a series of three lines. And are these --
20 where these lines meet up with Riverside Road, are those
21 typically called -- what? Egress points? Ingress points?

22 A. They could be termed that.

23 Q. What did you term them?

24 A. I termed them in the plan ingress or egress routes.

25 Q. Now, did the areas of ingress and egress from the area of

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1 operations -- did those post any particular security issues
2 from a planning standpoint?

3 A. Yes.

4 Q. What were those security concerns or factors?

5 A. Well, one of the -- one of the concerns was that when the
6 contractors were finished, they had to get the cattle
7 transported back to the incident command post.

8 Once they left the area and would be traveling
9 towards the state highway, there's always the potential,
10 especially if they took a route closer to the Bundy residence,
11 that they could be interfered with.

12 Q. Okay. Interfered how?

13 A. Attempt -- attempt -- an attempt to stop the convoy, an
14 attempt to block the convoy, an attempt to impede the convoy.

15 Q. How would -- if someone wanted to block in this area that
16 you gave as an example, how difficult would it be to block a
17 convoy coming out of that area?

18 MR. JACKSON: Objection. Speculation.

19 BY MR. MYHRE:

20 Q. Based on your knowledge and assessment of the area.

21 MR. JACKSON: Objection. Irrelevant and speculative.

22 THE COURT: It is relevant. The objection is
23 overruled as to speculation. He's preparing the security for
24 these contractors. He has to take into consideration what the
25 possible things that can happen to impede that operation. So

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1 he can testify about what he believed.

2 Whether or not it's true, it's up to the jury to
3 decide how much weight to give to his testimony.

4 BY MR. MYHRE:

5 Q. For your security plan and for the concerns that you've
6 expressed, what was your assessment or your understanding of
7 how someone could block at an egress or ingress point?

8 A. The -- if we used this example here, if the cattle were
9 gathered in that area, there are only a finite number of usable
10 dirt roads that a truck hauling a trailer could travel on.

11 So, there was not an unlimited route or unlimited
12 option of travel for the contractors. There were just a few
13 options. So if someone did want to block the convoy or
14 interfere with the convoy, they would only have a few dirt
15 roads that they would know inherently the contractors had to
16 use.

17 So they could -- if they wanted to, someone could use
18 a vehicle to block those dirt roads. Use a line of people to
19 block those dirt roads. Use a machine of some sort to block
20 those dirt roads.

21 Q. And if the convoy were blocked on that dirt road, what
22 type of security risk would that present to the civilian
23 contractors with that convoy?

24 A. It presented a serious security risk.

25 Q. In what way?

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1 A. In what ways? There --

2 MR. LEVENTHAL: Objection, Judge. It calls for
3 speculation. I -- just a simple block? He's speculating to
4 the worst. It could be just a block. I'm not sure how he can
5 answer that.

6 MR. MYHRE: Your Honor, we're asking the witness to
7 weigh the risk factors that went into the security plan. And
8 the factors -- one of the risk factors is what type of security
9 issues would be presented for the civilian contractors if the
10 convoy were blocked. It helps the jury to understand the
11 actions of the BLM.

12 THE COURT: All right. I'll permit it. The
13 objection is overruled. He can answer the question.

14 THE WITNESS: Well, the goal was to get the
15 contractors out of the area without any obstruction or without
16 any interference in their execution of this operation and
17 execution of the Court orders.

18 BY MR. MYHRE:

19 Q. Was this area in these -- in the general area, would it
20 be -- did -- was it difficult for a convoy, if it were blocked,
21 to just simply turn around and go another route?

22 A. Yes. In this -- in this area, very difficult.

23 Q. And why is that?

24 A. Because the terrain is very rough off of those dirt roads.
25 A vehicle or truck hauling a livestock trailer could not just

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1 simply turn around. It was not as if there were many nice flat
2 areas that the vehicle could just turn around and go the other
3 way.

4 Q. So, was it your goal, then, in devising a security plan,
5 to ensure that this convoy would not have a blocking incident
6 or have some free access to the State Route 170?

7 A. Yes.

8 Q. You talked about the outer rings of security; correct?

9 A. Yes.

10 Q. Where would those outer rings of security be placed, in
11 your example here, that you used on Exhibit 330.

12 A. In this particular example, we would have -- if I -- if
13 you will permit me to draw on this again. Let's just say that
14 the trap location was right here.

15 Q. Okay. You are drawing a circle within the circle you drew
16 before. Okay?

17 A. Right. The inner ring of security would be very close to
18 that area there. The middle ring of security depended on where
19 the -- that team's team leader put his or her personnel would
20 be in these types of areas here.

21 Q. Okay. You have drawn a circle about -- a little bit more
22 than midpoint between your outer circle and the Riverside Road
23 area; is that correct?

24 A. Correct. And then our outer ring of security would be at
25 the -- some of the significant ingress or egress points

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1 perhaps. This map isn't large enough, but perhaps to the south
2 of the Bundy residence. Perhaps here. Perhaps here at some of
3 these major intersections with Highway 170 and the dirt roads
4 coming out of the area.

5 Q. Okay. And you have drawn a series of diagonal lines
6 across the area depicted by State Route 170; is that correct?

7 A. That's correct.

8 Q. And again, the purpose of this was for that -- to protect
9 the egress and ingress; is that right?

10 A. Correct.

11 Q. Now, with respect to the First Amendment area, was the
12 goal to keep the public there in order to avoid the areas that
13 you have depicted on this map?

14 A. No, the goal is not to keep them there.

15 Q. Not to keep them there, but was your goal to ensure that
16 people would not congregate --

17 MR. LEVENTHAL: Objection as to leading.

18 MR. MYHRE: I haven't finished the question yet.

19 MR. LEVENTHAL: Objection as to leading.

20 THE COURT: Sustained. You can rephrase that.

21 MR. LEVENTHAL: What was the goal?

22 MR. MYHRE: I'm sorry?

23 MR. LEVENTHAL: No, go ahead.

24 THE COURT: He was rephrasing it for you. "What was
25 the goal?" he says.

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1 MR. MYHRE: Thank you, counsel.

2 MR. LEVENTHAL: No problem.

3 BY MR. MYHRE:

4 Q. What was the goal in terms of setting of -- having the
5 public have access to these areas of egress and ingress? Was
6 it --

7 A. I'm sorry. I'm not --

8 Q. No, that's fine.

9 A. I'm not sure what you are asking.

10 Q. Well, I'm asking you, was it important, in terms of the
11 security of this operation -- we talked about closure. Okay.
12 And we've talked about how you couldn't have a blockage at that
13 these points. Okay?

14 Did you want to keep the public out of this area
15 during operations so that these convoys could move?

16 MR. LEVENTHAL: Judge, asked and answered at this
17 point.

18 MR. MYHRE: I don't think, Your Honor, it has been.

19 THE COURT: I will allow one last question on it.

20 THE WITNESS: The goal was to -- to keep the public
21 out of the closed area where operations were going on for
22 public safety purposes.

23 BY MR. MYHRE:

24 Q. Thank you. Okay. So, now that you are -- let's go
25 forward in time a little bit now. We are past the planning

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1 stage. We are past the notification stage, and we getting
2 ready to execute the plan.

3 Do the -- directing your attention to around the end
4 of March of 2014, do the contractors begin to move equipment
5 into this area?

6 A. Yes.

7 Q. In the area you've referred to as the ICP?

8 A. Correct.

9 Q. And how are they moving that equipment?

10 A. They -- they came in a convoy of trucks from Utah.

11 Q. And they follow the interstate?

12 A. They followed Interstate 15.

13 Q. Did you receive any reports of interference with that
14 convoy?

15 A. Yes.

16 Q. And what generally -- without going into detail, just
17 generally what was the -- the report of the nature of the
18 interference?

19 A. When the contractors arrived to set up the incident
20 command post on March 28th, 2014, as they were pulling into the
21 entrance to the Toquop Wash, they were -- they were blocked.

22 Q. Did you investigate that event?

23 A. Yes.

24 Q. In the course of your investigation, did you also happen
25 to view a video that was generally available on YouTube?

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1 A. I did.

2 Q. Yeah. What was the nature of this video?

3 A. It was a -- it was a video that showed the contractors
4 pulling into the entrance to the Toquop Wash area and riders on
5 horseback riding in front of their vehicles as they were
6 attempting to drive into the Toquop Wash area.

7 Q. And was there any messaging or messages attached to this
8 video?

9 A. Yes, there were.

10 Q. Okay. And just the general nature of those messages?

11 A. The general message was that these were contractors hired
12 by the government. That they were there to steal Mr. Bundy's
13 cattle. That they had been paid a lot of money, and that they
14 were -- this was Mr. Bundy's private property.

15 Q. And did -- you found this video where?

16 A. It was on YouTube.

17 Q. Is that generally available to the public?

18 A. Yes.

19 Q. You had no special access to this?

20 A. No, I did not.

21 Q. And if you could look at Exhibit 14 in your binder,
22 please.

23 A. Okay.

24 Q. Okay. And Exhibit 14 appears to be a disc; is that
25 correct?

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1 A. Yes.

2 Q. And you've had -- outside the courtroom, you've had an
3 opportunity to review that recording that you observed around
4 the end of March of 2014; is that correct?

5 A. That's correct.

6 Q. And when you reviewed that recording, you did so at the US
7 Attorney's Office?

8 A. That's correct.

9 Q. And was that the fair and accurate depiction of what you
10 viewed on March of 2014?

11 A. Yes.

12 MR. MYHRE: Your Honor, we would offer Exhibit 14.

13 THE COURT: Any objection to Exhibit 14?

14 MR. MARCHESE: None from Parker.

15 MR. TANASI: None from Stewart, Your Honor.

16 MR. LEVENTHAL: None on behalf of Mr. Drexler. Thank
17 you.

18 MR. ENGEL: None from Engel.

19 MR. PEREZ: Not on behalf of Lovelien.

20 MR. JACKSON: Not on behalf of Mr. Burleson.

21 THE COURT: So Exhibit 14 will be admitted.

22 Are you planning to publish that?

23 MR. MYHRE: Yes.

24 (Exhibit 14 admitted.)

25 THE COURT: All right. Let's take a bathroom break

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1 first, because it's almost 3:40.

2 So during this break, I'll remind the jury. You are
3 not to discuss this case with anyone or permit anyone to
4 discuss it with you. You are not to read or listen to or view
5 anything touching upon this case in any way.

6 Do not perform any research or make any independent
7 investigation. If anyone should try to speak to you about the
8 case or if you accidentally overhear someone speaking about the
9 case, please let us know right away.

10 And do not form any opinion until you have heard all
11 the evidence, the closing arguments, received the written jury
12 instructions, and been released to begin your jury
13 deliberations.

14 Let's go ahead and stand for the jury. And after
15 they leave, then Special Agent Stover may also take a quick
16 break. We will plan to be back here in about 15 minutes, so
17 just before 4:00, 3:55. Okay.

18 (Jury out.)

19 THE COURT: All right. The jury has now left.

20 Mr. Stover, you can go ahead and stretch and use the
21 restroom.

22 Mr. Leventhal, you had an issue earlier this morning.
23 Are we -- is this a good time to talk about it or does it not
24 relate to this particular witness?

25 MR. LEVENTHAL: It actually does, and it goes into

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1 cross-examination. So depending on how far Mr. Myhre gets
2 today with Mr. Stover, it might be a good time or after
3 Mr. Stover is done with direct, it will be just as good of a
4 time if not tonight or tomorrow morning. Whatever the Court
5 wants.

6 THE COURT: Mr. Myhre --

7 MR. LEVENTHAL: It may take --

8 THE COURT: -- are you aware, because you were going
9 to get together at some point to discuss --

10 MR. MYHRE: That was my understanding is that we
11 would meet after the court session and determine exactly what
12 it is.

13 We've had some brief discussions. I have a general
14 understanding, but I'm not sure it's going to be that useful
15 for the Court's time now to address it. We could address it in
16 the morning or at the Court's pleasure.

17 THE COURT: Let's go ahead and take our bathroom
18 break.

19 MR. LEVENTHAL: Judge, just -- and I don't have a
20 problem with that. We can get together. That's what we spoke
21 of. However, just prior to cross-examination, either we can
22 deal with it or we can have the Court deal with it. That's
23 all.

24 THE COURT: Okay. Well, you try to deal with it
25 first, and if you have a problem that you want me to resolve,

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1 I'm happy to do that. But you guys try and deal with it first.

2 MR. LEVENTHAL: Thank you.

3 COURTROOM ADMINISTRATOR: Off record.

4 (Recess, 3:41 p.m. Resumed 4:01 p.m.)

5 THE COURT: Thank you. Let's go ahead and call in
6 the jury.

7 (Jury in.)

8 THE COURT: All right. Everyone may be seated. We
9 are joined by the jury, and we have Mr. -- I'm sorry -- Special
10 Agent Stover back on the stand.

11 I remind you, sir, you are still under oath. All
12 right?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: And Mr. Myhre, you may go ahead and
15 continue with your direct examination. We did admit Exhibit
16 No. 14. Did you wish to publish it now?

17 MR. MYHRE: Yes, Your Honor. Thank you. Before I
18 do, I would like to ask just a couple more preliminary
19 questions.

20 THE COURT: Sure.

21 BY MR. MYHRE:

22 Q. Agent Stover, in the course of reviewing Exhibit 14, were
23 you able to identify certain individuals in that video?

24 A. Yes.

25 Q. And was your identification based upon information you

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1 knew beforehand?

2 A. It was.

3 Q. Okay. What type of information did you consult?

4 A. Photographs and documents that we had compiled as part of
5 our planning.

6 MR. MYHRE: Okay. With the Court's permission, I
7 would like to publish Exhibit 14.

8 THE COURT: You may.

9 (Exhibit 14 being played.)

10 BY MR. MYHRE:

11 Q. I would stop it for a moment. If you would, just -- I
12 want to play this almost through in its entirety. So, if
13 you -- there are going to be a number of words and images on
14 here which is in plain view of the jury.

15 I just want to preface this in terms of the image you
16 see now on the screen, we don't have a time stamp on it. But
17 what does it -- what does this say in this part?

18 A. It says, "The BLM set up their million-dollar compound."

19 Q. Thank you. Please proceed.

20 (Exhibit 14 being played.)

21 Q. Stop the video there. And what does this read now?

22 A. It says, "Paid contract cowboys. Cattle wrestlers to
23 steal Cliven's cattle."

24 Q. Okay. In the images we see depicted here, in the
25 foreground, we see what appears to be a truck; is that correct?

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1 A. Correct.

2 Q. And do you recognize that truck as belonging to the
3 contractors?

4 A. I recognize it as one of the contractor's trucks, yes.

5 Q. Now, recall the maps that we consulted earlier. Where
6 exactly is this area that we see depicted in the video? Where
7 is that? Where is this area in relationship to the ICP?

8 A. This is the entrance area into the Toquop Wash. And in
9 the background there, kind of a gray line, you can see what is
10 southbound Interstate 15 on the left of the screen.

11 Q. And will the 15 come into view further on in this video?

12 A. Yes.

13 Q. Please continue.

14 (Exhibit 14 being played.)

15 Q. And in this image we see what?

16 A. We see another one of the contractor's trucks pulling a
17 livestock trailer and an RV trailer.

18 Q. Okay. Does there appear to be someone in front of them?

19 A. Yes.

20 Q. And do you know who -- were you able to identify who that
21 individual is?

22 A. That is Ryan Bundy.

23 Q. And Ryan Bundy is what relationship to Cliven Bundy?

24 A. He's a son of Cliven Bundy.

25 Q. And does Mr. Ryan Bundy here appear to be doing something

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1 with his hand?

2 A. He appears to be making a -- some kind of a hand gesture
3 towards the driver or the occupants of the -- that truck.

4 Q. Do you know what that truck is pulling in this particular
5 frame?

6 A. That truck is -- are you asked me about the livestock
7 trailer?

8 Q. Yes. We see the truck and there appears to be a trailer.
9 What are those trailers?

10 A. That's a livestock trailer and an RV trailer.

11 Q. Now, do there appear to be other vehicles behind that
12 trailer?

13 A. Yes.

14 Q. Please proceed.

15 (Exhibit 14 being played.)

16 Q. And what are the words on this frame that we see?

17 A. "Thousands of" -- it was a dollar sign. "Thousands of
18 dollars in equipment."

19 Q. And what type of vehicle do we see depicted here?

20 A. It looks like a semi-trailer.

21 Q. And the individual on the horse is?

22 A. That's Ryan Bundy.

23 Q. Now, we talked about the Interstate 15. Do you now see
24 that in the frame?

25 A. Yes, in the background.

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1 Q. And how -- and that is the southbound lane?

2 A. That's correct.

3 Q. Do you see any vehicles on the Interstate 15?

4 A. The white truck is on the shoulder of Interstate 15.

5 Q. Now, this is the area entering into the ICP that we talked
6 about earlier; correct?

7 A. Correct.

8 Q. Now, is there a -- in that area of the 15, is there a
9 turnout lane there, or any deceleration lane or anything of
10 nature?

11 A. No, there is not.

12 Q. If a truck were to be stopped here at this point, what
13 happens to the trucks that are on the 15 behind it?

14 A. The trucks would have to go around them.

15 Q. And in terms of the trucks that are part of this convoy,
16 what would they be doing?

17 A. Which trucks?

18 Q. Sure. That white truck, for example, that we see in this
19 image here to the -- the approximately left side of the screen,
20 is that truck on or off the 15?

21 A. It looks like they are partially on and partially off the
22 15.

23 Q. And does that present any hazard with respect to the
24 traffic on the 15?

25 A. Yes.

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1 Q. And what type of hazard?

2 A. That truck would be partially hanging out into the
3 right-hand lane of travel on southbound Interstate 15.

4 Q. Thank you. Please continue.

5 (Exhibit 14 being played.)

6 Q. Okay. If we could stop there for a moment, please. Now
7 we just heard a voiceover of this video; is that correct?

8 A. Correct.

9 Q. And that -- we're not going -- I'm not going to ask you to
10 repeat the words there, but just in general, what was the
11 message that was conveyed in that voiceover?

12 A. The general message was that Cliven Bundy was taking care
13 of the land, that he bought the grazing rights to the land, and
14 he was -- yeah.

15 Q. Was that message -- you reviewed the Court orders before
16 this impoundment; is that correct?

17 A. I did.

18 Q. Was that message consistent or inconsistent with what the
19 Court orders had said?

20 A. Inconsistent.

21 Q. Please continue.

22 (Exhibit 14 being played.)

23 Q. Stop right there for a moment. Now, in this image, we
24 see -- we're looking in which direction approximately?

25 A. Now the camera is pointed towards the northeast.

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1 Q. And is this a fair and accurate depiction of what that
2 convoy was like that day?

3 A. Yes.

4 Q. And we saw -- in a few frames before this, we saw an image
5 of the southbound 15; is that correct?

6 A. Correct.

7 Q. And we were -- which direction were we looking?

8 A. We were looking out -- the view that was looking towards
9 I-15, it was a view towards the south and a little bit to the
10 west.

11 Q. Okay. Now, was it looking at the oncoming traffic or the
12 traffic moving away?

13 A. It was looking at the traffic moving away towards Las
14 Vegas.

15 Q. Please proceed.

16 (Exhibit 14 being played.)

17 Q. In this frame here, we see someone appearing to hold up
18 something; is that correct?

19 A. Correct.

20 Q. And do you recognize that individual?

21 A. The individual in the blue shirt is Cliven Bundy.

22 Q. And what does he appear to be doing in this frame?

23 A. Appears to be taking a photo with a cell phone.

24 Q. And taking a photo of what?

25 A. The occupants of that truck.

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1 Q. Thank you. Please proceed.

2 (Exhibit 14 being played.)

3 Q. Stop it. In this image, we see the words what? How do
4 they read?

5 A. "They have locked us out."

6 Q. Now, we see an individual here on a horse; is that
7 correct?

8 A. Correct.

9 Q. And what does this individual appear to be doing?

10 A. He appears to be taking a photograph of that truck or the
11 truck's license plate.

12 Q. Is he inside or outside of his route of travel? The
13 truck's route of travel?

14 A. He is in the truck's route of travel.

15 MR. MARCHESE: I am going to object to relevance as
16 to this line of questioning. This particular witness was not
17 there on this day.

18 The foundation that was laid was that he saw this go
19 viral on YouTube. So, basically, all we're doing is we're
20 having him watch television and tell the jury what they can
21 perceive and whatever conclusions they can make on their own.
22 If we want to have him identify certain people, now that's
23 something he has particular knowledge about.

24 But simply playing this video and having -- and
25 giving a play-by-play, we can literally pull anyone off the

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1 street to do this. It's a waste of time for the jury, Your
2 Honor.

3 MR. TANASI: And, Your Honor, I'd join and just say
4 it's not the best evidence. The video is the best evidence.
5 It speaks for itself.

6 THE COURT: Mr. Myhre.

7 MR. MYHRE: Yes, Your Honor. Special Agent Stover
8 has indicated he had done an investigation in connection with
9 this. This was part of his investigation. It will go to -- as
10 we will see, it helps him form his decisions going forward in
11 terms of security for the operation of the impoundment.

12 So, his knowledge of these images goes directly to
13 that point.

14 THE COURT: All right. Objection's overruled. You
15 may continue.

16 MR. MYHRE: Please continue the video, please.

17 (Exhibit 14 being played.)

18 Q. Stop there for a moment, please. And just the frame
19 before this one, we saw a gate -- what appeared to be a gate;
20 is that correct?

21 A. Correct.

22 Q. And without naming names, who were those individuals
23 behind that gate? Who were they affiliated with?

24 A. Those were two BLM law enforcement rangers.

25 Q. Please continue.

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1 (Exhibit 14 being played.)

2 Q. And at the end of that video, did it reference the rights
3 to land and so forth?

4 A. It did.

5 Q. What was the general reference?

6 A. It said "And you are also locked out from your public
7 lands."

8 Q. Now, after viewing this video, did this inform your
9 decisions or your assessment of the risk presented to the
10 operation?

11 A. It did.

12 Q. And in what way?

13 A. It -- it showed me that Cliven Bundy and his family
14 members were willing to impede the operation or interfere with
15 the contractors from day one.

16 Q. And the operation had yet to begin; is that correct?

17 A. Correct.

18 Q. Did that translate for you, in terms of the -- now you've
19 seen an expression, a willingness. Did that change your method
20 of operation at all in terms of numbers of officers or the
21 configuration of the officers?

22 A. It did.

23 Q. In what way?

24 A. During this particular time, we had a small number of
25 officers that were assigned to secure the incident command post

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1 after the contractors got there and set up their equipment.

2 Because of this incident, I increased the number of
3 officers that were present on that -- that preoperational
4 security force.

5 Q. Now, the operation itself started on the 5th of April; is
6 that correct?

7 A. That was the first day that we gathered cows; correct.

8 Q. Did you have any -- did you receive any reports of
9 potential interference before the 5th of April?

10 A. Yes.

11 Q. And approximately when?

12 A. On March 31st, there was a report.

13 Q. And without going into the details of the report, what was
14 the general nature of the report that you received?

15 A. Cliven Bundy and Ryan Bundy went to the Arizona/Utah --

16 Q. In terms of first --

17 A. I'm sorry.

18 Q. I worded the question poorly. I'm sorry. From where did
19 you receive this report?

20 A. From a supervisor at the Arizona/Utah Port of Entry.

21 Q. And what -- just for record purposes, what is the Port of
22 Entry?

23 A. The Port of Entry is at the state line between Arizona and
24 Utah where various semi-trucks or livestock trailers pull off
25 to get weighed. You would think of it as a weigh station

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1 sometimes.

2 Q. Now, was there any report of any actual interference with
3 any BLM trucks or BLM convoys?

4 A. On which date?

5 MR. JACKSON: Objection. Leading.

6 THE REPORTER: Who said that?

7 THE COURT: That was Mr. Jackson.

8 MR. JACKSON: I'm going to object as leading for
9 Mr. Burleson.

10 MR. MYHRE: I was trying to get to the general nature
11 of the threat, but I can phrase it differently, Your Honor.

12 THE COURT: All right. Go ahead.

13 MR. MYHRE: It may take a little longer to get to the
14 point, but that's fine.

15 MR. JACKSON: Your Honor, I object to him saying it
16 will take a little longer to get it right. Ask non-leading
17 questions is always proper even if it takes longer.

18 THE COURT: You can ask leading questions to lay a
19 foundation. Go ahead.

20 MR. MYHRE: Thank you, Your Honor.

21 Q. So it came from the Port Authority. Okay. What was the
22 general nature of the report that you received from the Port
23 Authority?

24 A. The supervisor at the Arizona/Utah Department of
25 Transportation Port of Entry called me and said that Cliven

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1 Bundy and Ryan Bundy drove to the port and told the supervisor
2 that --

3 MR. LEVENTHAL: Objection as to hearsay.

4 MR. MARCHESE: And I join as to double hearsay.

5 MR. TANASI: Stewart joins as well.

6 MR. PEREZ: Joined by Lovelien.

7 MR. ENGEL: Joined by Engel.

8 MR. JACKSON: I'll join in, too.

9 THE COURT: Thank you, Mr. Jackson.

10 MR. MYHRE: Your Honor, again, it goes to the effect
11 on the listener. Again, the threat or the reports of threats
12 that this listener -- or excuse me -- that Agent Stover
13 receives again directly affects his decision making and his --
14 not only the threat assessment that he's making but informs his
15 decisions with respect to security operations.

16 THE COURT: All right. So you are not offering it as
17 coconspirator statements?

18 MR. MYHRE: Correct, Your Honor. I'm not offering
19 for the truth of the matter.

20 THE COURT: All right. I'll allow it. You may
21 continue.

22 MR. MARCHESE: But, Your Honor, my objection was as
23 to double hearsay. It's what someone is saying to an agent
24 that then says to it Mr. Stover. So I want to hear what the
25 other level of hearsay -- what the other exception is.

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1 MR. MYHRE: None of it is offered for the truth of
2 the matter asserted, Your Honor.

3 THE COURT: All right. It's offered for the effect
4 that it had on the listener.

5 MR. MARCHESE: On both listeners?

6 THE COURT: On this listener that's here, this
7 witness. What he did as a result of what he heard. So I will
8 allow it for that limited purpose only.

9 MR. MYHRE: Thank you, Your Honor.

10 Q. So, you received information about Cliven and Ryan Bundy;
11 correct?

12 A. Correct.

13 Q. And what was that information?

14 A. The supervisor I was talking about at the Port of Entry
15 called me and told me that Ryan Bundy and Cliven Bundy drove to
16 the Port of Entry, asked her if she had seen on that day,
17 March 31st, truckloads of stolen cattle come to her Port of
18 Entry.

19 Q. When -- would that area, that -- where the Port of Entry
20 is located, would that have been a transit point for cattle
21 moving to the Utah auction barn?

22 A. It would have been, yes.

23 Q. Now, did you later that same week receive any reports of
24 threats or interference or threats of interference from the
25 auction barn in Utah?

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1 A. Yes.

2 MR. JACKSON: I'm going to object again to leading
3 questions. I'm sorry if it takes extra time.

4 THE COURT: Thank you, Mr. Jackson. Overruled. You
5 may continue.

6 BY MR. MYHRE:

7 Q. And the owner of the auction barn was who again?

8 A. His name is Scott Robbins.

9 Q. What was the business relationship at this -- on
10 April 2nd, between the BLM and Scott Robbins?

11 A. He had been hired as a contractor to accept the cattle
12 that were gathered and to auction them off at his business.

13 Q. Now, on April 2nd, did he call you? Did he write you?
14 How did you have contact with him?

15 A. He called me.

16 Q. And did he indicate to you that he had any issues with
17 respect to interference?

18 A. Yes, he did.

19 Q. And what were those?

20 A. Mr. Robbins --

21 MR. JACKSON: Object as hearsay, what he may have
22 said. I think that the standard response -- I don't know what
23 he's going to make. Maybe I'm guessing what it's going to be.
24 But just say that it goes to his threat assessment is not a
25 valid response to a hearsay objection.

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1 I don't know what other exception he's going to come
2 up with, but I still object that what he said would be hearsay,
3 and also I object on confrontation grounds.

4 MR. MARCHESE: Your Honor, and I'm going to join.
5 I'm also going to add as to relevance. I mean, the cumulation
6 of this evidence, that has absolutely nothing to do with these
7 gentlemen, their names have barely been mentioned at all in
8 this trial, it's just simply -- they are pulling it out to
9 inflame the jury.

10 If they wanted to say that I increased the threat
11 level based upon things that I heard, that's fine. But getting
12 into these specific instances, time, and time, and time again,
13 when these gentlemen aren't even part of it, it's more
14 prejudicial than probative. I think we should move on, Your
15 Honor.

16 THE COURT: All right. Mr. Myhre.

17 MR. MYHRE: Yes, Your Honor. We offer it for the
18 same reason as we did before. But even more than that, the --
19 as we understand it, from the defense opening statements and so
20 forth, they believe one of the issues is, is how the BLM was
21 configured security-wise out in the field.

22 In other words, that they were a militarized force at
23 some level. We are trying to advance proof of the rationale
24 behind what -- why the BLM was doing what it was doing in the
25 field during the gathering operations.

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1 And these instances of conduct, this information is
2 directly relevant to how the BLM assessed the threat and how
3 they conducted their operation.

4 THE COURT: So this goes to why there were so many
5 BLM agents out there or other agents and the security level
6 that these individuals --

7 MR. MYHRE: Yes.

8 THE COURT: -- used. All right.

9 MR. MYHRE: Yes, Your Honor. It helps explain that.
10 It's not the only thing, but it helps explain that.

11 THE COURT: Well, that is relevant. I will allow it.

12 BY MR. MYHRE:

13 Q. And so Agent Stover, I just want you to generally
14 characterize it. I don't want to go into precisely what he
15 said. I just want to know the general nature of what it was
16 that he was reporting to you.

17 A. Mr. Robbins reported to me that on that day, April 2nd,
18 during his regularly scheduled livestock auction, Ryan Bundy
19 and -- the reports were -- the report he said was between 30
20 and 40 other individuals interrupted his auction and caused him
21 to shut down his auction for 45 to 60 minutes.

22 Q. And did this affect your relation -- not your, but the
23 relationship -- the business relationship between BLM and
24 Mr. Robbins?

25 A. In what way?

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1 Q. Did it cause him not to want to do business with BLM, or
2 did it effect it any other way? Did he continue to want to do
3 business?

4 A. He expressed he was very upset, but he said he was a man
5 of his word, and he would -- he would continue with the
6 contract.

7 Q. Now, so we have those two reports to you. Do you later
8 get a report, later in the week on the April 6th, that of an
9 arrest concerning David Bundy?

10 A. Yes.

11 Q. And what were the general nature -- what's the general
12 nature of the charges or the bases for the arrest?

13 A. Dave -- Dave Bundy was arrested on April 6th for failure
14 to disburse and resisting arrest.

15 Q. Okay. Now, when you say "failure to disburse," where
16 approximately did the arrest occur?

17 A. He was located on the shoulder of Highway 170 at about
18 mile marker four and a half wherein he was arrested.

19 Q. So if we go back to Exhibit 330 for a moment.

20 A. Okay.

21 Q. Is the general area of where his arrest occurred
22 depicted -- it's on your monitor, Agent. Is the general area
23 of where this arrest occurred depicted anywhere on Exhibit 30?

24 A. Yes.

25 Q. Okay. Could you, using the marker on your screen, just

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1 generally mark the general area where this occurred?

2 A. It was approximately in the location -- oops.

3 Q. Okay.

4 A. May I clear that line that I accidentally made?

5 Q. Sure. Just clear that. That's fine.

6 Okay. So you have drawn a circle around an area of
7 State Route 170?

8 A. Yes.

9 Q. Okay. Now, did this -- at the time of this arrest, did
10 this occur in or near an area where a convoy was operating?

11 A. Yes.

12 Q. Now, with these incidents, did that affect your assessment
13 of the security risk in that area? In the area of the
14 impoundment operations?

15 A. Yes, it did.

16 Q. How did it affect it?

17 A. It affected my security assessment by reaffirming that the
18 Bundy family or supporters of the Bundy family were going to
19 continue to interfere with the execution of these Court orders
20 and potentially impede the work that the contractors were
21 doing.

22 Q. Now, we talked a little earlier about, you know, the
23 number of officers that were involved in the security operation
24 and so forth. And they worked in shifts; is that correct?

25 A. That's correct.

Rand Stover - Direct

1 Q. Just generally speaking, what were the shifts?

2 A. We had two shifts; a day shift and a night shift.

3 Q. And when generally would day shift begin and end?

4 A. It depended on the area that the contractors were
5 operating in that day. Typically between 4:00 a.m. and
6 7:00 a.m. is when they would begin.

7 Q. Now, with each change of shift during the course of the
8 impoundment operations, would the officers receive briefings?

9 A. Yes.

10 Q. And what would those briefings consist of?

11 A. They would consist of an overview of the area of operation
12 for that particular day and any updates of incidents that had
13 happened the previous day when they weren't on shift. It would
14 include the specific incidents, such as arrests, or citations,
15 or instances of interference.

16 Q. And so what -- what was the purpose behind the briefings?

17 A. To ensure that our personnel were updated on any relevant
18 security concerns and the general area where we were going to
19 be operating in that day.

20 Q. Who would conduct these briefings?

21 A. There were a number of people. Myself, sometimes the
22 contractor or the -- excuse me -- the BLM employee that worked
23 closely with the contractor. Occasionally the special agent in
24 charge would speak at the briefings.

25 THE COURT: Mr. Myhre, is this a good place to break?

Rand Stover - Direct

1 Because it's 4:34. We were going to end at 4:30.

2 MR. MYHRE: Yes, Your Honor.

3 THE COURT: Is that all right?

4 MR. MYHRE: This is fine.

5 THE COURT: So, for this overnight break, again I
6 remind the jurors that you are not to discuss this case with
7 anyone or permit anyone to discuss it with you.

8 You may speak to your fellow jurors about other
9 things, but until the case is submitted to you, you are not to
10 talk about the case. If you need to talk to your work to let
11 them know, "Yes, I'm still in trial. I'm going to be in trial
12 every day except Friday of this week," you can tell them that.
13 But don't tell them anything else if they ask you, "How is it
14 going? What did you do today?" Please do not talk to anyone
15 about the case.

16 You are also not to read or listen to or view
17 anything that touches upon the case in any way. Do not perform
18 any research or any independent investigation, and do not form
19 an opinion until after you have received all the evidence,
20 heard the closing arguments, received the written jury
21 instructions, and then are released to go begin your
22 deliberations.

23 So we will welcome you back here at 8:00 a.m.
24 tomorrow morning. And we will stand for the jury. And after
25 they exit, then Agent Stover, you may also take your evening

1 break, and we will need you back here at 8:00 a.m. tomorrow
2 morning as well.

3 (Jury out.)

4 THE COURT: All right. So can we go ahead and recess
5 for the night?

6 MR. MYHRE: Yes.

7 MR. MARCHESE: Yes.

8 THE COURT: All right. We will see you tomorrow
9 morning at 8:00.

10 COURTROOM ADMINISTRATOR: Off record.

11 (Recess, 4:36 p.m.)
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1 INDEX OF EXAMINATIONS

2 For the Plaintiff:

3 Witness Name Direct Cross RD RX Voir Dire

4 Rand Stover 5

6 PLAINTIFF'S EXHIBIT INDEX

7 Exhibit No. Marked Admitted

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COURT REPORTER'S CERTIFICATE

I, KATHERINE EISMANN, Official Court Reporter, United States District Court, District of Nevada, Las Vegas, Nevada, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Date: March 2, 2017.

/s/ Katherine Eismann

Katherine Eismann, CSR CRR RDR